

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.393 OF 2018

Abdul Rajjak Abdul Ganni Parkar & Anr.] ... Petitioners

Versus

The Sr. Police Inspector,]
 Kalyan MSEDCL Police Station & Ors.] ... Respondents

Mr. M. M. Agavekar for Petitioners.
 Mrs. S. V. Sonawane, APP for State.
 Mr. Kiran Gandhi i/b Little & Co. for Respondent Nos.2 & 3.

CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE :- 21 MARCH, 2018

P. C. :-

1. By the above Writ Petition, the Petitioners are seeking the following substantial relief which is by way of prayer clause (b).

“b. *This Hon'ble Court may kindly be pleased to issue a Writ of Mandamus or any other suitable Writ, order or direction, quashing the impugn assessment bill at EXHIBIT – F & G and further be pleased to direct the respondent no.2 & 3 to revise the impugn assessment bill in the light of MERC regulation no 8.6 and the Circulars / provisions referred above;*”

2. The cause for filing the above Writ Petition is the fact that the Special Court constituted under the Indian Electricity Act, 2003 (for short, 'the said Act') is seized of the criminal cases arising out of the FIR which have been lodged under Section 135 of the said Act. The gravamen of the allegation against the Petitioners is the theft of electricity and it is on the said basis that the provision of Section 135 of the said Act has been invoked. The Petitioners, it seems, had applied for bail before the Special Court. The Special Court, vide order dated 14/09/2017, allowed the application for bail filed by the Petitioners by imposing certain conditions. One of the conditions is that the Petitioners were to make payment of 50% of the amount due from the Petitioners. It seems that the Petitioners had filed an application dated 09/11/2017 seeking extension of time for complying with the said condition of payment of the amount. The said application came to be rejected by the Special Court i.e. the Court of learned Sessions Judge at Mangaon, District Raigad, by order dated 15/12/2017. The Petitioners thereafter approached this Court by way of Criminal Application No.94 of 2018. A learned Single Judge of this Court, as and by way of indulgence, had granted extension for a period of six weeks to enable the Petitioners herein to deposit the

balance amount of Rs.33 Lakhs as an amount of Rs.10 Lakhs had already been deposited. It was contingent upon the deposit of the balance amount that the Petitioners were granted liberty to file a fresh application seeking restoration of the electricity supply. The learned Single Judge has further observed that if any such application was filed by the Petitioners, then the same was to be decided on its own merits after hearing all the parties. Insofar as deposit of the balance amount is concerned, the learned Counsel for the Petitioners Mr.Agavekar fairly states that the amount is not deposited till date. However, the period of six weeks is still to come to an end. However, having regard to the substantive relief sought which, as indicated above, is by way of prayer clause (b), we are afraid that in the above Writ Petition, we would not be able to accede to the request of the Petitioners for grant of any such relief. The Petitioners are also not entitled to any such relief in the instant Writ Petition having regard to the order passed by the learned Single Judge dated 22/02/2018 which we have adverted to hereinabove. The Writ Petition to accordingly stand dismissed.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)