

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3428 of 2018

Ilyaas Babban Shah @ Ilyaas
Ahmed Shah .. Petitioner
Versus
The State of Maharashtra & ors .. Respondents

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Ms.Ratna R. Jaiswal for the petitioner.
Mrs.P.P. Shinde, APP for the State.
Mr.Sanjay Patil, respondent no.3 present in person.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 11th OCTOBER, 2018

P.C:-

1 Heard learned counsel for the petitioner, learned APP for the State and respondent no.3 in person.

2 Petition is filed for quashing and setting aside of the FIR bearing No.59 of 2016 registered at the instance of respondent no.3 against the petitioner and one other accused under Section 135 of the Electricity Act.

3 The petitioner states that Shri Mohd. Gufran Iqbal Khan is the owner of the premises in question and the

petitioner is the licensee. The electricity was supplied to the premises in question by M/s.Reliance Infrastructure Ltd. It is alleged in the FIR that when the authorized person from the said Company visited the premises in question on 24th November 2016, it was revealed that the electricity was stolen by tampering the electricity meter and accordingly, an offence was registered under Section 135 of the Electricity Act, 2003. The owner of the premises was also served with the notice for the assessment charges being Rs.61,733/- for the period between 22/11/2015 to 24/11/2016.

4 Learned counsel for the petitioner submits that the owner of the premises Shri Mohd Gufran Iqbal Khan has deposited the assessment charges in pursuance of the issuance of notice to him and he compounded the offence by depositing compounding charges of Rs.10,000/- since the offence was compoundable. The statement made by the petitioner to the effect that the owner has deposited an amount due to M/s.Reliance Infrastructure as admitted by the respondent no.3 and also by the learned APP.

5 As a matter of fact, respondent no.3 who is present in the Court makes a statement that Reliance Infrastructure Ltd has no objection if the FIR is quashed since the assessment bill amount and the compounding charges have already been paid by the owner of the said premises.

6 Section 135 of the Electricity Act speaks of the theft of the Electricity. Section 152 deals with the compounding of the offence which reads thus :

Section 152. (Compounding of offences):

--- (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below :

TABLE

Nature of Service	Rate at which the sum of money for Compounding to be collected per Kilowatt(KW)/Horse Power(HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere(KVA) of contracted demand for High Tension (HT)
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1. Industrial Service	twenty thousand rupees;
2. Commercial Service	ten thousand rupees;
3. Agricultural Service	two thousand rupees;
4. Other Services	four thousand rupees:

Provided that the Appropriate Government may, by notification in the Official Gazette, amend the rates specified in the Table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.

(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

7 Plain reading of sub-clause(2) of Section 152 makes it clear that on payment of compounding charges, no proceedings shall be instituted or continued against the person who is alleged to have been committed offence of theft and in the event such person is in custody, he be set at liberty.

8 In light of the above position, continuation of the criminal proceedings against the present petitioner would not be in the interest of justice and would amount to abuse of process of law since the Electricity Act itself has made certain offences compoundable. In such circumstances, we are inclined to exercise our jurisdiction under Section 482 of the Code of Criminal Procedure to quash and set aside the subject FIR.

9 Petition deserves to be allowed. The same is accordingly allowed in terms of prayer clause (a). FIR No.59 of 2016 accordingly stands quashed.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)