

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.13678 OF 2011

ORDER:

This petition is filed, by the petitioner, seeking for quash of the proceedings against him in E.S.C.No.3 of 2011 on the file of the court of I Additional Metropolitan Sessions Judge, Hyderabad. The offences alleged are under Section 135 of the Electricity Act, 2003 (for short, "the Act").

2. Heard the counsel for the petitioner; the Public Prosecutor appearing for the 1st respondent; as well as the counsel appearing for the 2nd respondent.

3. The counsel for the petitioner seeks for quash mainly on two grounds. The first ground is that the complaint was not filed within 24 hours, as is mandated by the proviso to Section 135(1A) of the Indian Electricity (Amendment) Act, 2007, which runs as follows:

"(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

.....

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty-four hours from the time of such disconnection:

....."

4. The other contention is that for trying the offences under the Act, though a special court was constituted, the case has to be committed to the special court for trial. In support of the said submission, he relies on a ruling of this court reported in STATE

OF AP, REP. BY THE PUBLIC PROSECUTOR VS. M/ S.SHALINI STEELS PRIVATE LIMITED, BOLLARAM, MEDAK DISTRICT¹, wherein this court relied on a ruling of the apex court reported in GANGULA ASHOK AND ANOTHER V. STATE OF AP [2000(1) ALT (CRL.) 174 (SC)], which held that in view of Section 193 Cr.P.C. the committal order is must and unless it is strictly made clear in the special enactment that committal order is not required, then only the Special Court can take cognizance.

5. The Public Prosecutor does not refute the fact that the Special Court has directly taken cognisance of the case.

6. Hence, in view of the above ruling, this court opines that the proceedings against the petitioner need to be quashed.

7. With the above observations, the Criminal Petition is allowed and the proceedings in E.S.C.No.3 of 2011 on the file of the court of I Additional Metropolitan Sessions Judge, Hyderabad, against the petitioner, are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T.RAJANI, J

December 3, 2018
LMV

¹ 2010 ALT (Cri) 338