

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-2986 of 2018

Date of decision: 27.09.2018

G. Raman

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Dinesh Kumar Jangra, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

SURINDER GUPTA, J.(Oral)

The petitioner has filed this petition under Section 482 Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of FIR No.12681 dated 28.10.2017 (Annexure P-1), registered for offence punishable under Section 135 of The Electricity Act, 2003 at Police Station I&P PS Hisar, along with all consequential proceedings arising therefrom.

Instant FIR was registered against the petitioner on the complaint of Amit Singh, SDO (Operations), Hisar, which reads as follows:-

“.....Subject: Lodging of FIR against Conservator of Forest.

Sh. S.K. Hooda, SDO, Sh. Sanjay, JE, Sh. Hem Joshi, SDO, Ravinder ASI/EASI checked the consumer premises through LLI no. 3513/1 dated 09.10.2017. Consumer name Sh. Raman s/o Sh. Devi Ji, Address F-14, Residence of Conservator of Forest, Hisar. Where consumer found using theft of electricity through which a total loss of ₹18,296/- (Assessment charge 18296) occurred to Nigam. A notice has been sent to consumer through memo no. H11/2017/1720 dated 28.10.2017.....but the consumer not paid his theft penalty after repeating many times the consumer only consoled that he will pay his penalty. After waiting a lot the consumer did not pay his penalty.

Accordingly, you are requested to lodge a FIR under section 135 read with section 151 under Electricity Act, 2003 against the above said person under intimation to this office. Amit Singh, SDO.”

Learned counsel for the petitioner has sought quashing of the FIR on the sole ground that as per case of prosecution, lab report of the meter of petitioner was received on 28.10.2017. On the same day, a notice was issued to the petitioner calling upon him to deposit total amount of ₹18,296/-. The petitioner deposited the said amount on 30.10.2017 as 28.10.2017 was Saturday and 29.10.2017 was Sunday. The present FIR was got registered against the petitioner with the allegation that he has not paid the amount of penalty after repeated requests and his representation that he will pay the same. It was also stated in the FIR that after waiting a lot, the petitioner has not paid the amount of penalty as per notice. Falsity of averments of complainant in the FIR are evident. Once amount sought from the petitioner has been deposited without any delay, the FIR registered against him is misuse of process of court.

Learned State counsel has admitted that after inspection of premises of petitioner on 09.10.2017, his meter was sent to laboratory for checking and report was received on 28.10.2017. On the same day, notice demanding a sum of ₹18,296/- was issued to the petitioner, which was served through affixation and FIR was also got registered on the same day. She has further admitted that payment of penalty as sought from the petitioner was deposited by him on 30.10.2017 i.e. Monday. She submits that the offence of stealing electricity could not be compounded as the petitioner was earlier also found stealing the electric energy and the FIR has been rightly registered against him.

On perusal of above facts, I find that FIR in question appears to have been got registered by Mr. Amit Singh, SDO (Operations), Hisar in great hurry without providing reasonable opportunity to the petitioner to deposit the assessed amount of penalty, as per the notice issued to him. As the notice demanding a sum of ₹18,296/- was served through affixation on 28.10.2017, there could be no reason for recital in the complaint made to the police that petitioner despite giving opportunity has failed to pay the aforesaid amount and the department has waited a lot before lodging the FIR. So far as submission of learned State counsel that petitioner was earlier also involved in theft of electricity is concerned, this FIR has not been registered with said averment. Learned State counsel could not come up with any explanation as to what was the hurry with SDO Amit Singh to lodge the FIR on the day notice calling upon the petitioner to deposit the amount was issued. In case the offence was not compoundable, he could still wait and file a better complaint with allegation in the complaint regarding previous offence, if any, committed by the petitioner.

As a sequel of my above discussion, I find that instant FIR registered against the petitioner is a sheer misuse of process of law. The petition is allowed and impugned FIR No.12681 dated 28.10.2017 (Annexure P-1), registered for the offence punishable under Section 135 of The Electricity Act, 2003 at Police Station I&P PS Hisar, along with all consequential proceedings arising therefrom, qua petitioner, is quashed.

September 27, 2018

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(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No