

CRM-M-33175 of 2015

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-33175 of 2015
Date of Decision: 06.08.2018

Uttar Haryana Bijli Vitran Nigak Limited (UHBVNL)

....Petitioner

Versus

Pritam Dass

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Deepak Sabherwal, Advocate, for the petitioner.
Mr. Bhag Singh, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing the order dated 02.05.2015 (Annexure P-4) of learned Additional Sessions Judge, Ambala.

Briefly, on 15.09.2012 respondent Pritam Dass was found committing theft of electricity at his house connecting a direct wire from the main line to the grip box. The spot was videographed. Report (Annexure P-1) was prepared in this respect. Consequently, FIR No.7 dated 22.01.2013 (Annexure P-3) was lodged against the respondent. During trial, respondent moved application for compounding the offence. Learned Additional Sessions Judge vide impugned order granted permission to the respondent to compound the offence subject to payment of three times of the penalty amount by him.

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Court failed to appreciate that earlier also, the respondent was found committing theft of electricity on 02.01.2012. At that time, respondent was permitted to compound the offence. Consequently, respondent had deposited Rs.24,000/- as compounding fee. Therefore, no FIR was lodged against him. Section 152(4) of the Electricity Act, 2003 (for short 'the Act') debars compounding of offence for the second time. The trial Court failed to appreciate that since once the respondent had already been permitted to compound the offence, therefore, he could not have been permitted to compound the subsequent similar offence.

On the other hand, learned counsel for the respondent vehemently opposing the above arguments of learned counsel for the petitioner contends that Section 135 of the Act provides that when theft of less than 10 kilowatts of electricity is found to have been committed, the same can be compounded by paying three times of the financial gain for the first offence and not less than six times of the financial gain for the subsequent offence. In the instant case, respondent has already paid thrice the value of the alleged financial gain to him by stealing electricity through illegal means. Therefore, impugned order is not liable to be set aside.

Having considered submissions made by both the parties, I find merit in this petition for the reasons to follow.

Respondent has not disputed compounding of his earlier theft around nine months prior to the present theft. Section 152(4) of the Act debars compounding of subsequent theft of electricity by a person. The trial Court failed to adhere to the provisions of Section 152(4) of the Act, while passing the impugned order. Therefore, the same is liable to be set aside.

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Respondent is directed to appear before the trial Court on or before 21.08.2018 to face trial.

Disposed of.

August 06, 2018	(RAMENDRA JAIN)
R.S.	JUDGE
Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No