

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9163-2011 (O&M)
Date of decision : 29.11.2018

M/s VRS Hotel & Resorts (P) Ltd

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R. Kartikey, Advocate for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Ravinder Singh, Advocate for
Mr. Puneet Gupta, Advocate for respondent No. 2.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

Present petition is filed under Section 482 of the Code of Criminal Procedure for quashing of the FIR No. 66 dated 31.7.2010 under Section 135 of the Electricity Act, 2003, registered at Police Station Anti Power Theft, Patiala.

Petitioner is running a resort in the name and style of the VRS Hotel & Resorts Pvt. Ltd (Kachnar Greens) at Rajpura, District Patiala. Petitioner is also the consumer of electricity. On 9.10.2009, a team of Punjab State Electricity Board officials visited the premises of the petitioner to check the electricity meter. Checking staff raised the objection that outer seals of the meter and the body was broken and consequently meter was

taken for checking in ME lab. Thereafter, petitioner was served with a notice on 22.04.2010 (Annexure P-2) wherein he was intimated that on inspection it was found that ME seals and body of the electricity meter are tampered. Petitioner was called upon to deposit an amount of Rs. 16,75,918/- on account of theft of electricity under Section 135 of the Electricity Act 2003.

Petitioner submitted the detailed representation on 3.5.2010, wherein it was alleged that initially meter was installed in kitchen block of the hotel and later on as per safety norms, the petitioner got a separate energy room constructed for the electricity meter and it was the Sub Divisional Electricity Board Staff-respondent No. 2 who got the meter shifted and there was every possibility that the seals of the meter could have got damaged at the time of shifting of the electricity meter. Petitioner denied the theft of electricity by himself.

It also comes out that against the order of imposition of penalty, petitioner approached the District Consumer Disputes Redressal Forum, Patiala on 15.07.2010, wherein the petitioner challenged the penalty of Rs. 16,75,918/- imposed upon him. The District Consumer Disputes Redressal Forum, Patiala allowed the application of the petitioner on 13.01.2011. However, the order was reversed by State Consumer Disputes Redressal Commission Punjab on 23.8.2013.

It comes out that FIR in question was registered on 31.7.2010 i.e. after the petitioner has approached the District Consumer Disputes Redressal Forum, Patiala on 15.7.2010.

In the reply, respondents have taken the stand that in the inspection, both seals of MTC and seals of M&T of the meter have been found tampered and re-fixed. Another stand was also taken that on testing by the ME lab, it was found that ME seals and body of the meter has been tampered. Shifting of the meter is not denied.

Section 135 of the Electricity Act, 2003 deals with the theft of electricity. The relevant Section in the present case is 135(1) (b), which is reproduced below: -

“Section 135 (Theft of Electricity): -- 1(1) Whoever, dishonestly--

(a) xxx xxx xxx

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted.”

A perusal of the said Section shows that it deals with theft of electricity. *Clause B* deals where the meter is tampered or some tampered meter is used which interferes with the accurate or proper registration and calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted. Therefore, the ingredients of the said offence under Section 135 are that by any of the method mentioned therein, the electricity is stolen. The report of ME Lab (Annexure P-4) shows that on testing, it was found that all ME seals and bodies are tampered. There is no report that there was re-calibration of the meter and that as a result of tampering, there was a theft of electricity. For breaking the ME seals and

tampering body, the penalty could be imposed, if it is found that it was done by the petitioner. However, offence of theft of electricity under Section 135 of the Electricity Act, 2003 is not made out. As such the present petition is nothing but misuse of the process of Court and apparently got registered after the petitioner approached the District Consumers Disputes Redressal Forum, Patiala on 15.07.2010.

As such, FIR No. 66 dated 31.7.2010 under Section 135 of the Electricity Act, 2003, registered at Police Sation Anti Power Theft, Patiala along with consequential proceedings qua petitioner stands quashed.

Petition stands allowed.

(KULDIP SINGH)
JUDGE

29.11.2018
preeti

Whether speaking / reasoned	Yes/No
Whether Reportable:	Yes/No