

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.982 of 2019

Arising Out of PS. Case No.-307 Year-2017 Thana- CHANPATIA District- West Champaran

Sunil Kumar S/O Sri Lima Shankar Prasad Resident of Kalwarpatti, Ward No. 2, P.O. and P.S.- Chanpatia, West Champaran having business at Gandhi Nagar, Ward NO. 6, Post office and Police Station- Chanpattiah, District- West Chamaparan, Pin-845449.

... .. Petitioner

Versus

1. The State Of Bihar Through Principal Secretary Energy Deptt., Govt. Of Bihar, Patna
2. Managing Director, North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
3. Chief Engineer (Commercial), North Bihar Power Distribution company Ltd. Vidyut Bhawan, Bailey Road Patna, Bihar
4. Electrical Superintendent Engineer, Electric Supply circle, North Bihar Power Distribution Company Ltd., Motihari (East Champaran).
5. Electrical Executive Engineer, Electric Supply Division, North Bihar Power Distribution Company Ltd Bettiah (West Champaran).
6. Assistant Electrical Engineer, Electric Supply Sub-Division, North Bihar Power Distribution Company Ltd., Bettiah (West Champaran).
7. Junior Electrical Engineer, Electric Supply Section, North Bihar Power Distribution Company Ltd., Chanpattiya (West Champaran).

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Gupta
For the Respondent/s : Mr.Yogendra Prasad Sinha

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 26-06-2019

Heard learned counsel for the petitioner and learned counsel for the State.

2. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner seeking following reliefs :-



- “(i) Issuance of a direction or writ including writ in the nature of certiorari for quashing the order of cognizance dated 22.11.2018 passed by ADJ-8 cum Special Judge I/C Electricity NBPDCCL, Muzaffarpur in Special Case No. 201/2017 arising out of Chanpatiya P.S. Case No. 307 of 2017 dated 25.08.2017 under section 135 of Indian Electricity Act.
- (ii) Issuance of direction, order or writ including the writ in the nature of prohibition commanding ADJ-8 cum Special Judge I/C Electricity NBPDCCL, Muzaffarpur to refrain from acting in furtherance of impugned order of cognizance.
- (iii) Issuance of a direction, order or writ including writ in the nature of Mandamus commanding S.P., West Champaran, Bettiah to conduct further investigation in the matter and not to take any coercive steps and action against the petitioner.
- (iv) Issuance of a direction order or writ including writ in the nature of Mandamus commanding the respondent authorities of N.B.P.D.C.L. to take steps for enquiry and disposal of objection petition filed by the petitioner and pass order for Final Assessment as per



the provisions of Sec 126 of Electricity Act 2003 and Clause 11.2.3(a) (b) and (c) of Bihar Electricity Supply Code 2007.

- (v) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

3. It is submitted by the learned counsel for the petitioner that the allegations made in the FIR are false. The petitioner has got an electric connection in his name whereafter the meter was installed in his premises in the month of February, 2017. Subsequently, he had filed an application for enhancement of load on 03.05.2017. After getting electricity connection, the petitioner regularly deposited the electric bill. It is wrong to allege that he was consuming electricity by bypassing the meter. The search and seizure made by the police are glaring example of arbitrariness and highhandedness on the part of the police. He contended that the investigation conducted was also tainted and the police report submitted against the petitioner is perfunctory in nature.

4. On the other hand, learned counsel appearing for the State submitted that there is no illegality in the order impugned dated 22.11.2018 passed by the Special Judge, NBPDCI,



Muzaffarpur. There is direct and specific allegation against the petitioner that he was consuming electricity illegally by bypassing the meter. On completion of investigation, the police submitted its report on 25.08.2017 wherein also the case was found to be true against the petitioner and on perusal of the statement of witnesses recorded under Section 161(2) of the Code of Criminal Procedure and other materials along with the police report, the learned Special Judge rightly summoned the petitioner to face trial.

5. Having heard the parties and perused the record, I find that the informant Rajeev Kumar Singh, Junior Electrical Engineer, Chanpatiya submitted his written report to the Officer-in-Charge of Chanpatiya Police Station, West Champaran on 25.08.2017 on the basis of which the FIR has been instituted. In his written report, he has alleged that in the commercial premises of the petitioner the electricity was being consumed by bypassing the meter as a result of which the Company had sustained loss of Rs.2,14,228/-. The police report, as contained in Annexure-2 to the application, also suggests that in course of investigation the witnesses examined had supported the allegation and finding the case to be true, the investigating officer submitted charge-sheet no. 153 of 2018 dated 22.05.2018 in the court of Special Judge,



NBPDCL, Muzaffarpur pursuant to which cognizance of the offence has been taken against the petitioner.

6. Regard being had to the facts and circumstances of the case, I do not find any illegality in the order passed by the court below. The application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.06.2019
Transmission Date	28.06.2019

