

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.2046 of 2018**

Arising Out of PS. Case No.-452 Year-2013 Thana- KANKARBAG District- Patna

Sri Brajnandan Singh @ Sri B. N. Singh S/o Late Baikunth Singh @ Baikunth Nath Singh, R/o village- Palanga, P.S.- Parsa Bazar, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Power Holding Distribution Company South Bihar, Pesu Area, Mitra Mandal Road, Saket Vihar, Anisabad
3. Sarad Kumar @ Tuntun Singh S/o Late Sidheshwar Pd. Singh the then General secretary of Kurmi Vikash Parisad, R/o DC/13 and DC/28, P.S.- Kankarbagh, District- Patna.
4. Sankar Kumar Chaudhary @ .. Choudhary J.E. of Electricity Board, Kankarbagh West , P.S.- Kankarbagh

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Deovind Kumar Singh  
For the Opposite Party/s : Mr. Abhay Kumar – 1, APP  
For the opposite parties no. 2-4 Mr. Ajay Kumar Gautam, Advocate

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

2      19-11-2019                      Heard the learned counsel for the parties.

The petitioner seeks quashing of the order dated 19.09.2017 passed by the learned Special Judge, PESU in connection with Special Case No. 1182 of 2013, arising out of Kankarbagh P. S. Case No. 452 of 2013, whereby the petition preferred for discharge has been rejected.

It has been communicated to this Court by the learned counsel for the petitioner that only shortly before, charges have been framed but no witness has been



examined as yet. It appears from the F.I.R. that on raid in the premises of one Kumar Vikash Prasad in Kankarbagh, it was found that the electrical energy was being consumed despite the disconnection of the electricity line on 31.08.2013 for dues of electricity bill. The theft of the electricity thus was quantified at Rs. 35,434/- which was inclusive of the amount of fine and the consumption of the electric units.

Learned counsel for the petitioner has submitted that the F.I.R. has been lodged on misconception of fact.

It has been submitted that the premise is not of any Kumar Vikash Prasad. In fact, the building in question was constructed by a society called Kurmi Vikas Parishad of which the petitioner was the Secretary till about 2006. After the year 2006, the petitioner no longer remained associated with the aforesaid body and in the interregnum, several persons were inducted as Secretary of the Parishad. In that event, even if assuming that there was theft of electricity, the petitioner could not have been held responsible for the same.



Apart from this, it has been submitted that the court below did not take into account the fact that the entire amount which was quantified at the time of lodging of the F.I.R. was paid by the petitioner, which fact stands admitted by the learned counsel appearing for the Electricity Company. The aforesaid payment was made at the time of grant of bail to the petitioner.

The counter affidavit filed on behalf of Opposite Party No. 2, namely, South Bihar Power Distribution Company Limited further indicates that the premises is in the name of one Sarad Kumar and in his name also, there is another electricity consumer connection.

Thus, it has been urged that the court below did not take into account the aforesaid fact and refused to discharge the petitioner only on the ground that on the spot verification, it was found that the electrical energy was being pilfered and consumed without any authorization.

Regard being had to the fact that the entire quantified amount of theft of electricity has been paid by the petitioner, though under protest, and that he was not the



Secretary of the organization since 2006, this Court is inclined to set aside the order refusing to discharge the petitioner. The order impugned is set aside.

The application stands allowed. The petitioner stands discharged.

**(Ashutosh Kumar, J)**

skm/-

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