

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1430 of 2019

Arising Out of PS. Case No.-94 Year-2018 Thana- JAMUI District- Jamui

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Bijay Kumar @ Vijay Kumar @ Vijay Kumar Varnval, Son of Late Sachidanand Modi @ Schidanand Barnwal @ Sachidanand Varnval Resident of Village- Lohara, P.S. and District- Jamui, at present residing at Mahisauri, P.S. and District- Jamui.

... .. Petitioner

Versus

1. The State of Bihar through the Home Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Jamui.
4. The Officer Incharge of the Jamui Police Station, Jamui.
5. The South Bihar Power Distribution Company Ltd. through its Chairman, Electricity Board, Bihar, Patna.
6. The Executive Engineer, Electric Supply Sub Division, Jamui.
7. The Assistant Electrical Engineer, Electrical Supply Sub Division, Jamui.
8. The Junior Electrical Engineer, Electricity Supply Sub Division, Jamui namely Pappu Kumar. Jamui.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Prakash Mahto-Advocate
For the State	:	Mr. Iqbal Asif Niazi-AC to GP-5
For SBPDCL (Res.No.5):	:	Mr. Prakash Kumar-Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

23-10-2019

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the S.B.P.D.C.L.

2. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for quashing the first information report (for short 'F.I.R.') of Jamui Adarsh P. S. Case No.94 of 2018 dated 24.02.2018 registered under Section 135 of the Electricity Act.



3. It is submitted by the learned counsel for the petitioner that the petitioner is innocent and the allegations made against him are of false and concocted. According to him, on 01.01.2018 in spot billing of month of December, 2017, electric bill for an amount of Rs.1,55,089/- showing meter reading as 27678 was issued. The consumption in two days was of 24110 units. Thereafter, he made a complaint on 12.02.2018 through online portal of South Bihar Power Distribution Company Limited. On the aforesaid complaint, one electrician of the Electric Supply Sub-Division, Jamui, namely, Dinesh Singh came in absence of the petitioner at his house and took away the meter telling his wife that the said meter is defective and running fast and would be reinstalled after repairing. Subsequently, he came back and reinstalled a meter. Thereafter, on 23.02.2018, some officials of the Electric Supply Sub-Division, Jamui came at his house and made allegation that the petitioner had tampered the meter. He contended that as a matter of fact, the petitioner has been made an escape goat, because he had dared to make a complaint regarding the defective meter on the portal of the Power Distribution Company.

4. Per contra, learned counsel appearing for the State as also learned counsel appearing for the South Bihar



Power Distribution Company submitted that the contentions advanced by the petitioner are in the nature of defence, which can be scrutinized by the police in course of investigation and by the Court in course of trial. However, the same cannot be made a ground for quashing of the F.I.R. They contended that in the F.I.R., there is specific allegation against the petitioner that on 23.02.2018, when the meter installed at the house of the petitioner was inspected, it was found that the body of meter on the right side was tampered and the seal was broken. Further, the meter number on the body and the screen did not match. It was also noticed that past reading of the meter was reduced. They contended that the allegations made in the F.I.R. would clearly attract the ingredients of the offence punishable under Section 135 of the Electricity Act, 2003. Hence, the application filed by the petitioner for quashing of the F.I.R. deserves to be rejected.

5. Having heard the parties and perused the allegations made in the F.I.R., I find substance in the submissions of the learned counsel for the State and the South Bihar Power Distribution Company Limited. There is specific allegation in the F.I.R. regarding tampering of the meter installed at the house of the petitioner. The seal of the meter was



found broken. The aforesaid allegations are sufficient to attract the ingredients of the offence alleged, which is classified as a cognizable offence. In case of a cognizable offence, the police has a statutory right to investigate.

6. In that view of the matter, neither the institution of the F.I.R. nor its investigation can be held to be bad.

7. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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