

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-42557-2016 (O&M)
Date of decision : September 06, 2019

MANOJ KAPOOR

.....Petitioner

Versus

STATE OF HARYANA AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rahul Gautam, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. S.K. Mahajan, Advocate
for the respondent No.2.

ARVIND SINGH SANGWAN, J (ORAL)

Prayer made in the petition is for quashing of the FIR No. 858 dated 04.11.2015 (Annexure P1) and order framing charges dated 05.10.2016 (Annexure P2) along with all subsequent proceedings arising there in terms of the provisions of Section 152 of the Electricity (Supply) Act 2003, registered at P.S. I&P Sushant Lok-1 Gurgaon (now Gurugram), Haryana, as the alleged offence has been compounded by the complainant/respondent No.2-Dakshin Haryana Bijli Vitran Nigam (DHBVN) through SDO (OP) DLF City, Sub Division, DHBVN, Gurgaon, Haryana with the petitioner.

Learned counsel for the petitioner has submitted that the entire dues have been paid to the complainant, therefore, the prosecution of the petitioner initiated under Section 135, 138 read with Section 150 of the Indian Electricity (Supply) Act 2003 is in contravention of provisions of Section 152 of the Electricity (Supply) Act 2003 and the same is liable to be quashed.

Short reply by way of affidavit on behalf of respondent No.2 K.C. Aggarwal, Superdenting Engineer Circle-II DHBVN Ltd. Gurugram has been filed and is taken on record and in the affidavit it is admitted that the petitioner has paid the entire amount. However it has been stated that the other co-accused namely Gobind and Udaybhan have not paid the amount and they are also involved in some other cases.

It is further stated that in the FIR as per the provisions of Section 152 (1) (4), compounding of the offence can be allowed only once for any person or consumer and therefore after hearing the learned counsel for the parties and as per the instructions from Mr. K.C. Aggarwal, Superdenting Engineer Circle-II DHBVN Ltd. Gurugram and by considering the fact that the other co-accused namely Gobind and Udaybhan and the fact that the number of cases are also pending against them as such the FIR may be quashed only qua; the petitioner.

Learned State counsel has not disputed the factual position.

After hearing the counsel for the parties, I find merit in this petition considering the fact that it is undisputed that the petitioner has cleared the entire dues and the offence has been compounded by the complainant in FIR No. 858. Hence, FIR No. 858 dated 04.11.2015

(Annexure P1) and order framing charges dated 05.10.2016 (Annexure P2) along with all subsequent proceedings arising there in terms of the provisions of Section 152 of the Electricity (Supply) Act 2003, registered at P.S. I&P Sushant Lok-1 Gurgaon (now Gurugram), Haryana, is quashed qua; the petitioner-Manoj Kapoor.

It is clarified that it will be open for the trial Court to proceed further with regard to the other co-accused namely Gobind and Udaybhan.

(ARVIND SINGH SANGWAN)
JUDGE

06.09.2019

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No