

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.6186/2019

**COTTON OIL AND CAKE INDUSTRIES
KARMALA THROUGH ITS OWNER
SWATI LAHU RAKH PETITIONER**

V/s.

THE STATE OF MAHARASHTRA AND ANR.... RESPONDENTS.

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Mr.Ashish S. Sawant for the Petitioner.

Mr.Kiran Gandhi, Advocate i/b Little & Company for
Respondent No.2.

Mr.R.M.Pethe, APP for the State.

CORAM : A. M. BADAR, J.

DATE : 14TH JANUARY 2020.

:ORAL JUDGEMENT:

1. Heard. Rule. Heard forthwith.

2. The petitioner/Industry is sought to be prosecuted by respondent no.2/Electricity Company for offence punishable under Section 135 of the Indian Electricity Act on the basis of the F.I.R. lodged against it on 02.05.2019 by its employee Swapnil Londhe for the offence of theft of electricity punishable under Section 135 of the Indian Electricity Act. The petitioner/industry in the meanwhile preferred an application u/s 154(5) of the Indian Electricity Act for determining interim civil liability in order to get disconnected electricity supply restored to it i.e. how after hearing both the sides, the learned trial court determined civil liability at Rs.2,23,187/- and directed restoration of supply of electricity energy to the petitioner/Industry.

3. After hearing learned counsel appearing for parties, even learned counsel for respondent no.2/Electricity Distribution Company has not disputed the fact that interim civil liability as against the petitioner/Company is Rs.2,23,187/-.

4. The problem arose because of non mentioning of correct consumer number in the application under Section 154(5) of the Indian Electricity Act by the petitioner. As stated by the learned counsel for the petitioner inadvertently consumer number allotted by respondent No.2/Electricity Distribution Company to the petitioner/Industry when the Petitioner/Industry was under construction, came to be mentioned in the application u/s 154(5) of the Indian Electricity Act. After noticing this fact, initially the petitioner applied for amendment in operative portion of the order passed on application u/s 154(5) of the Indian Electricity Act. The petitioner claimed that consumer number and meter number in the operative portion of Order be deleted and respondent No.2 herein be directed to restore electricity supply to the petitioner/Industry which was disconnected on 08/04/2019. The said application came to be rejected by the impugned order below Exhibit 13. This resulted in petitioner

again approaching learned trial court with request that instead of consumer number mentioned in the application u/s 154(5) of the Indian Electricity Act, consumer number i.e. 347080005881 and correct meter number i.e. 055-X0879949 to be mentioned in the order direction re-connection by accepting amount towards interim civil liability. This application is also rejected by the impugned order.

5. Learned counsel for respondent no.2/Electricity Distribution Company has not disputed the fact that the interim civil liability of Rs.2,23,187/- is assessed in respect of petitioner having consumer number 347080005881 and meter number i.e. 055-X0879949.

6 Though the learned trial court has rightly rejected the application for rectification and/or amendment in impugned order moved by the petitioner herein, undisputedly interim civil liability is correctly assessed by the learned trial court

and therefore, technicalities of law needs to be ignored while exercising writ jurisdiction of this court. Therefore, in the interest of justice, this Court directs respondent No.2/Electricity Distribution Company to restore the electric energy supply to the petitioner/Company by accepting interim civil liability assessed by the learned trial court in respect of consumer number 347080005881 and meter number i.e. 055-X0879949.

7. With these directions, the writ petition stands disposed of.

8. Parties to act on authenticated copy of this order.

(A. M. BADAR, J.)

