

08.11.2021

Sl. No. 08

Srimanta

Ct. No. – 25

D/L

**CRR/2562/2007
(Via Video Conference)**

In the matter of : Yadvindar Singh.

... petitioner.

In Re : An application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Pratim Priya Dasgupta, Adv.,
Mr. Aasish Choudhury, Adv.,
Mr. Asit Dey, Adv.,
Ms. Puja Tripathi, Adv.

...for the petitioner.

The instant criminal revision arises out of an application under Section 482 of the Code of Criminal Procedure praying for quashing of the proceeding being Sankrial Police Station Case No.101/05 dated 28th April, 2005 corresponding to charge-sheet No.67/06 dated 31st March, 2006 under Sections 135(1)(b)/135(1)(c)/150 of the Electricity Act and Sections 379/201/406/109 of the Indian Penal Code pending before the learned Additional Judicial Magistrate, 4th Court(II) Special Judge under the Electricity Act.

Suffice it to record that the petitioner was implicated in the above referred criminal case on the allegation that he committed theft of electricity and incurred huge loss to the West Bengal State Electricity Board. The legal officer of the W.B.S.E.B. conducted an inspection in the commercial resort of the petitioner and detected such theft of electricity. Such detection followed filing of F.I.R. in the local Police Station for institution of a specific case against the petitioner. The police registered Sankrial Police Station Case No.101/05 and on

conclusion of investigation submitted charge-sheet against the petitioner.

The petitioner has filed the instant application for quashing of the proceeding on the ground that the petitioner has already paid entire amount of electrical charges along with the fine amount and other statutory dues to the West Bengal State Electricity Board and at this stage he is enjoying electricity without any grievance of the opposite parties. Vide order dated 20th July, 2021 a Coordinate Bench of this Court directed the petitioner to file supplementary affidavit with all relevant documents showing payment of electrical charges, penalty and other dues payable by him in favour of the West Bengal State Electricity Board. In compliance of the said order the petitioner has filed a supplementary affidavit before this Court.

In the supplementary affidavit it is stated by the petitioner that after registration of the F.I.R., the electricity Board sent a provisional bill to the petitioner demanding a sum of Rs.4,17,289/-. The said demand was challenged by the petitioner before this Court in constitutional writ jurisdiction by filing W. P. No. 9559 (W) of 2005. By an order dated 10th May, 2005, this Court directed the petitioner to deposit a sum of Rs.1,50,000/- together with reconnection charges and cost of meter. The West Bengal State Electricity Board was simultaneously directed to reconnect the service to the petitioner within 48 hours of receipt of such amount. Subsequently on 28th June, 2007 the electricity Board passed an order of final assessment directing the petitioner to pay Rs.7,75,483/- in favour of the Board. The said order was also challenged by the petitioner in Writ Petition No. 16199 (W) of 2007. The learned Writ Court disposed of the said writ petition directing the petitioner to pay Rs.3.9 lakhs by 16th October, 2007 and the balance amount by 12 (twelve) equal

monthly installments. Liberty was also granted to the petitioner to prefer appeal against final assessment before the Appellate Authority within four weeks from the date. The petitioner challenged the order passed by the Learned Single Judge in W. P. No. 16199 (W) of 2007 before the Division Bench of this Court. The aforesaid mandamus appeal was disposed of vide order dated 15th October, 2007. The petitioner was directed to comply with the order passed by the learned Trial Judge so far as it relates to payment of electrical dues. The time to prefer an appeal against the final assessment order was, however, extended. The petitioner then preferred an appeal before the Appellate Authority. The said appeal being dismissed on contest, the petitioner paid entire amount towards final assessment in favour of the Board.

Therefore, it is submitted by the learned advocate for the petitioner that the petitioner has already paid the entire amount for which he was subjected to face penal provision under Section 135 of the Indian Electricity Act plus the amount of final assessment. At present, there is no outstanding payable by the petitioner in favour of the Board. Since the entire amount has been paid, the petitioner has prayed for quashing of the proceeding pending before the Trial Court being G.R. Case No. 942 of 2005.

It is pertinent to mention that the opposite party remains absent in spite of service of notice being effected and affidavit of service having been filed. The conduct of the opposite parties presumably suggests that after receiving the entire dues along with final assessment charges, the opposite parties are not interested to proceed with the instant proceeding.

Theft of electricity was adjusted in terms of valuation made on the basis of per unit electrical consumption which

was allegedly consumed by the petitioner by committing theft. The amount having been paid by the petitioner, the criminal case pending against him becomes infructuous.

In view of the above discussion, the instant revisional application is allowed. G.R. Case No. 942 of 2005 pending before the learned Additional Judicial Magistrate, 4th Court (II), Special Judge, Electricity Act is quashed.

The learned Special Judge, Electricity Act is directed to record an order of discharge of the petitioner from the above referred criminal case in view of the judgment passed in the instant proceeding.

The revisional application is, thus, **disposed of**.

The petitioner is at liberty to act upon the server copy of the judgment.

(Bibek Chaudhuri, J.)