

Sr. 16
24-06-2021
Subha.
Court no. 34

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE
(Via Video Conference)**

CRR 3821 of 2008

In Re : **Kalyan Kumar Kundu**

.....Petitioner.

In the matter of : An application under Section 482 of the
Code of Criminal Procedure.

Mr. Kaushik Gupta
Mr. Anirban Tarafder

...for the petitioner.

Mr. Swapan Banerjee, Id. APP
Mr. Ashok Das

.....for the State.

Mr. Kaushik Gupta, learned advocate appearing for the CESC authorities submits that the impugned order dated 17th July, 2008 suffers from illegality in view of the fact that the learned Judge, Special Court under the Electricity Act, Howrah relied upon the provisions of Section 126(4) of the Indian Electricity Act, 2003 which was non-existent on the said date as the provisions were deleted on 15th June, 2007.

Be that as it may, I find that there is also an additional observation of the learned special court that the entire amount which was complained of in respect of theft of energy was paid to the CESC authorities.

To that extent, there is no dispute but the dispute is with regard to the provisions of compounding which were subsequently incorporated in the Act and which was the law on which date the learned Special Court passed the order. So far as the issue of law is concerned, which has been relied upon by Mr. Gupta, learned advocate for the CESC authorities, this court also do not dispute the same and obviously in regular cases the law is to be applied in the manner which is existing on the date on which the order is passed. To that extent, the order passed by the learned special court relying on Section 126(4) of the Indian Electricity Act, 2003 is not tenable in law.

However, having regard to the fact that the discharge was in the year 2008 and it was only the manner of exercising the provisions of compounding which was existing on the same date on which the order was passed which is the subject-matter of grievance, I am not interfering with the impugned order. However, this order is restricted to the present case and will not have any binding effect on any other case.

Accordingly, the revisional application being CRR 3821 of 2008 is disposed of.

The report of the Officer-in-Charge, Bauria Police Station, Howrah Rural District submitted through the learned advocate appearing for the State be kept with the record.

All connected applications, if any, are disposed of.

Interim order, if any, is hereby vacated.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)