

CRR 646 of 2008

In the matter of : Ajoy Kumar Kundu

Ms. Devi Priya Mitra ... for the petitioner

Mr. B.K. Roy
Ms. Sima Biswas ... for the State

Mr. Aniket Mitra ... for the O.P. No. 2

By filing this application under consideration the petitioner seeking an order of quashment of the proceeding being G.R. Case No. 132 of 2003 arising out of Kotulpur P.S. Case No. 18 of 2003 dated 28.4.2003 under Section 39(1)(b)(c) of the Indian Electricity Act (West Bengal Amendment) pending before the learned Additional Chief Judicial Magistrate, Bishnupur, Bankura.

Briefly stated petitioner being the owner of M/S. Surendranath Rice Mill obtained connection from WBSEB after observing necessary formalities for running the mill and the petitioner never defaulted in payment of bill. One Sri Manik Chandra Pal, Divisional Engineer, Bishnupur District (D&M) S-Division, WBSEB, Bankura informed the O.C. Kotulpur P.S. in writing that on 28.4.2003 at 5-30 P.M. he along with Mr. P. N. Roy, Station Superintendent, Kotulpur and Sri Tapas Mondal Sr. S.A.E. (C) went to the premises of M/S. Surendranath Rice Mill owned by Sri Ajoy Kr. Kundu at Ankargerya to hold an inspection and found that Sri Kundu was dishonestly using electricity through tampered energy meter. The meter was sealed and labelled in presence of the aforesaid persons. According to Mr. Pal, Sri Ajoy Kumar Kundu

committed offences under Section 39 of the Indian Electricity Act (West Bengal Amendment). The information so disclosed constitute an offence cognizable in nature and police registered Kotulpur P.S. Case No. 18 of 2003, took up investigation which culminated in submission of charge sheet.

Challenging the propriety of charge sheet the petitioner has filed this application.

Mr. Devi Priya Mitra, learned counsel appearing on behalf of the petitioner vehemently argued that the rice mill owner did not commit any offence within the meaning of Section 39 of the Indian Electricity Act which is why the State Electricity Board restored the connection upon payment of requisite fee as demanded by WBSEB presently known as WBSEDCL. The factum of restoration of the electric connection, according to Ms. Mitra unerringly indicate the innocence on the part of the consumer. This proceeding is being used to harass his client and if it is allowed to continue before the learned Trial Court it will be an abuse of process of law.

Refuting such contention of Ms. Mitra, Mr. Aniket Mitra, learned counsel representing the opposite party no. 2 submits that the electricity being an essential commodity, considering the fact that electric connection was given to run the rice mill the connection was restored upon payment of requisite fees by the petitioner but restoration of energy does not indicate in a case the innocence of the petitioner and there is no room to presume that no mischief was done by the petitioner within the meaning of Section 39 of the Indian Electricity Act.

Mr. Mitra, in support of his contention submits a photocopy of the report dated 09.11.2022 to indicate the payment actually made by the petitioner. The report is taken on record.

While appreciating the points raised by Ms. Mitra, about the non-seizure of electric meter, non examination of meter by the competent authority to arrive at a decision that the meter was actually tampered, I am of the view that these are good points to be considered by the learned Trial Court and they are not sufficient to inspire this Court to exercise inherent jurisdiction vested under Section 482 of the Cr. P.C. to quash the proceeding.

In my humble opinion this application for revision is bereft of any merit. While coming to such conclusion I would like to indicate that the petitioner will be at liberty, rather it will be his inherent right to draw the attention of learned Trial Court, all points canvassed by Ms. Mitra before this Court at the time of trial and there is no reason to hold that the trial Court would refuse to appreciate those points.

With this observations the petition is disposed of.

However, there shall be no order as to costs.

The copy of the order be sent down to the learned Trial Court for information and necessary action.

The parties shall act upon the server copy duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)