

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.684 OF 2022

Saira Ahmed Khan
through her son
Afzal Ahmed Khan

...Petitioner

Versus

The Additional Executive Engineer,
Maharashtra State electricity Distribution
Co. Ltd. & Anr.

...Respondents

Mr. Sachin Sibhash Tigde for the Petitioner

Mrs. Anjali Raghunath Shiledar Baxi for the Respondent No. 1

Ms. Anamika Malhotra, A.P.P for the Respondent No.2–State

***CORAM : REVATI MOHITE DERE, J.
THURSDAY, 24th MARCH 2022***

P.C. :

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the consent of
the parties and is taken up for final disposal. Ms. Baxi waives notice for the

respondent No. 1. Learned APP waives notice for the respondent No.2– State.

3 By this petition, the petitioner has impugned the order dated 13th January 2022 passed by the learned Additional Sessions Judge, Thane below Exhibit 3 in Criminal Misc. Application No. 521 of 2021, by which the learned Judge was pleased to reject the interim relief seeking re-connection of the electricity supply and for restoration of the electricity connection.

4 Perused the papers. The petitioner has filed this petition through her son. The petitioner is the electricity consumer, who is aged about 62 years and is handicapped and bedridden. It appears that the petitioner is in use, occupation and in possession of a dwelling house No. 615, Diwale Village, CBD Belapur at Navi Mumbai. It appears that the said house is provided with two numbers of Low Tension (LT) residential electricity connections by MSEDCL. Both the consumer numbers are in the name of the petitioner and the said electricity connections are used for residential purpose. It appears that during the spot inspection done, it was

found that the petitioner was directly using partial power supply by tapping the main incoming cable of MSEDCL and committing theft of electricity, pursuant to which, the petitioner's electricity supply was disconnected. Thereafter, the authorities issued two electricity bills dated 21st September 2021 amounting Rs. 19,29,180/- and another bill dated 21st September 2021 amounting Rs. 2,15,350/- for committing theft of electricity supply. Accordingly, an FIR was lodged against the petitioner on 15th November 2021 under Section 135 of the Electricity Act at CBD Belapur Police Station. It appears that pursuant thereto, the petitioner filed an interim relief application on 28th December 2021, for restoration of the electricity supply to the petitioner's house, which was disconnected. The said interim relief application was rejected by the learned Additional Sessions Judge vide order dated 13th January 2022, which order is impugned in the present writ petition.

5 Learned counsel for the petitioner states that the petitioner has not committed theft of electricity. He, however, states that the petitioner, without prejudice to her rights and contentions, is ready to deposit Rs. 12,00,000/- with the Authority i.e. the respondent No.1 within 2 days

from today. He further submits, on instructions, that the petitioner would continue to pay the electricity charges as per the demands of the respondent No.1, within the time frame as specified in the bills. He also undertakes to pay the re-connection charges as per the Rules.

6 Learned counsel relied on two orders passed by this Court dated 16th November 2017 passed in Writ Petition No. 11879/2017 and dated 24th November 2017 passed in Writ Petition No. 12973/2017, in support of his submission, that although there is a demand of Rs. 22 lakhs odd, this Court has discretion, by directing a lesser deposit i.e. 50 to 60% of the actual demand.

7 Perused the orders passed in the aforesaid petitions. Since the Special Court would be adjudicating the matter, it would be appropriate to dispose of the aforesaid petition by directing the petitioner to deposit Rs. 12,00,000/- with the respondent No.1, without prejudice to the petitioner's rights and contentions, before the Special Court. Needless to state, that the petitioner will be depositing the said amount under protest, subject to what is stated aforesaid. The petitioner has undertaken to regularly pay the

monthly electricity charges as demanded by the respondent No.1 and as specified in the bills, generated by the respondent No.1. Statement accepted.

8 Subject to what is stated aforesaid, the respondent No.1 to restore the electricity connection as soon as the said payment of Rs. 12,00,000/- and connection charges are deposited by the petitioner with the respondent No.1. The petitioner to continue paying monthly electricity bills as generated by respondent No.1. All contentions of all parties are kept open before the learned Special Judge. It is made clear that the said deposit of Rs. 12,00,000/- is made by the petitioner, without prejudice to her rights and contentions.

9 Petition is disposed of accordingly. Rule is made absolute in the aforesaid terms.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.