

In the High Court of Punjab and Haryana at Chandigarh

Criminal Appeal No. S-2480-SB of 2011 (O&M)
Date of Decision: 22.3.2022

Shiv Pal

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. P.S.Hundal, Senior Advocate with
Mr. Prashant Mahajan, Advocate
for the appellant.

Mr. Tanuj Sharma, AAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. The accused faced charge for committing an offence punishable under Section 135 of the Electricity Act, 2003. The learned Special Judge under the Electricity Act, Panchkula, qua the afore drawn charge, made a verdict of conviction, on 09.9.2011, qua the accused. Moreover, the learned Special Judge concerned, also proceeded to sentence the convict, to pay a fine of Rs. 29,80,602/-, and, in default of payment of fine, sentenced him to undergo rigorous imprisonment for a period of three months. However, the period of imprisonment already undergone by the accused, during investigation or hearing of the case, was through the mandate, as carried in Section 428 Cr.P.C, hence ordered to be set off against the afore period of default sentence, imposed upon the convict.

2. The aggrieved convict assailed the afore drawn verdict of

conviction, and, consequent therewith sentence (supra), through his instituting the instant Criminal Appeal No. S-2480-SB of 2011, before this Court.

3. The learned senior counsel for the appellant submits, that post verdict of conviction, the appellant had deposited the entire, imposed upon him, sentence of fine, comprised in a sum of Rs. 29,80,602/-. The afore amount of fine, imposed upon the appellant, as unfolded in the order of sentence, drawn by the learned Special Judge concerned, was paid on the date, when the afore sentence of fine, became imposed upon him. The learned senior counsel for the appellant further argues, that though the endeavour to make composition of offence, in respect whereof, the convict became charged, and, also became convicted, could be validly made, even before the learned Special Judge concerned, whereas, it being made post verdict of conviction, inasmuch as through Annexure A-2, yet, in terms of the provisions, as carried in Sub-section (3) of Section 152 of the Electricity Act, 2003, and theirs rather stipulating that the acceptance by the authorized officer concerned, of the quantified composition money, hence being deemed to be an acquittal, within Section 300(2) of the Cr.P.C.. Therefore he contends that the afore provisions become attracted qua the appellant, and, in consequence thereof, the appeal be allowed, and, the appellant be acquitted. For reasons hereafter, the above prayer is accepted.

4. Since Annexure A-2, reveals that a sum of Rs. 13,63,534/- became levied as theft penalty, along with surcharge i.e. Rs. 10,76,544/- and, Rs. 3,70,000/- hence on account of compounding, of the relevant offence, and, since it is also revealed by Annexure P-2, that the afore deposit also became accepted by the authorized officer. Furthermore, since

a perusal of Annexure A-2, also unfolds that thereafter, the appellant has no outstanding liability, arising from his committing theft of electricity. Moreover, since the learned State counsel submits, that the officer who has drawn Annexure A-2, is authorized to accept the composition amount, as becomes echoed therein, to become carried in a sum of Rs. 13,63,534/-, as theft penalty, along with surcharge i.e. Rs. 10,76,544/- and, Rs. 3,70,000/- as also became levied, on account of compounding(s) rather against the account concerned. Therefore, the above post conviction composition of the offence, constrains this Court to accept the instant appeal, and, after quashing, and setting aside the impugned verdict of conviction, and, consequent therewith imposition of fine, upon the appellant, this Court also proceeds to acquit the accused.

5. Accordingly, the instant appeal is allowed. The verdict passed by the learned Court below, is set aside. The appellant-convict, is acquitted of the charge drawn against him, for an offence under Section 135 of the Electricity Act, and, also the bail bonds and surety bonds, furnished by him, shall stand discharged, and, cancelled.

6. However, in respect of fine amount, deposited by the convict, in pursuance to the sentence of fine, being imposed upon him, it is open to the convict-appellant herein to proceed to make an appropriate application, before the learned Special Judge concerned, and, the latter shall after hearing all concerned, hence proceed to make a lawful order thereons.

(SURESHWAR THAKUR)
JUDGE

March 22, 2022

Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes