

12.5.2023

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C.R.R. 13 of 2007

In the matter of : Sankar Halder

Mr. Jayanta Narayan Chatterjee
Mr. Supreem Naskar
Ms. Pritha Sinha
...for the petitioner.

Mr. Binoy Kr. Panda
Ms. Pushpita Saha
...for the State.

This revisional application under Section 482 of the Code of Criminal Procedure challenges the proceeding being G.R. Case No. 324 of 2003 pending before the learned Judicial Magistrate, 2nd Court at Siliguri arising out of Matigara Police Station Case No. 81 of 2003.

Briefly stated the petitioner was the Station Superintendent, Bagdogra Group Electric Supply, West Bengal State Electricity Board who has been arraigned as an accused person at the behest of Pran Krishna Sen who took out a petition of complaint before the learned Additional Judicial Magistrate, Siliguri stating, inter alia, that a petition was filed before the District Consumer Dispute Redressal Forum at Siliguri against WBSEDCL for allegedly sending excessive electric bill for the period of 28th January, 2001 and 6th

October, 2001. The said case was registered as Consumer No. 24(S) of 2002. In the month of December 2002, the accused person sent a notice demanding payment against the electric bills for the month of May, June, October, November, December, 2001 and January 2002 amounting to Rs. 4,133. After receiving the said notice Shri Pran Krishana Sen visited the office of the accused person to pay the two bills out of six but the accused person refused to accept the same and ultimately disconnected the electric connection of the premises of the complainant out of grudge as the petition of complaint was filed by him in the Consumer Forum. On 26th of February, 2003, however, the case pending before the Dispute Redressal Consumer Forum was dismissed. On 7th March, 2003 at about 5.30 p.m. the accused along with one of his staff allegedly trespassed into the house of the complainant and disconnected the electric line without giving any prior notice to them.

The learned Sub-Divisional Judicial Magistrate at Siliguri forwarded the petition of complaint to the jurisdictional police station under Section 156 (3) of the Code of Criminal Procedure and Matigara Police Station Case No. 81 of 2003

was registered on 22nd March, 2003. Police took up investigation and submitted a charge-sheet against the accused person under Sections 448, 451(a) /506/166, 167 of the Indian Penal Code.

Mr. Chatterjee, learned counsel for the petitioner submits that the supply line was disconnected by WBSEDCL on 7th March, 2003 from the service pole and the action taken by WBSEDCL was absolutely lawful. My attention was drawn to the letter dated 18th April, 2003 addressed to Divisional Engineer at Siliguri.

It is further adverted that the petitioner being the Station Superintendent directed to disconnect the service line which was carried out by Mr. Modak. Since the service connection was disconnected from the service pole as reported by service line man there is no reason to hold that the accused person committed any offence within the meaning of Sections 448, 451(a) /506/166 and 167 of the Indian Penal Code.

The Station Superintendent was well within his jurisdiction to take the decision for disconnection of service line against any consumer who failed to pay the electric charges.

Mr. Panda, learned counsel representing the State, however, submits that police after

investigation when submitted a charge-sheet, there is every reason to presume prima facie that the offence was committed by the accused person.

I have perused the charge-sheet, the I.O. simply replicated the content of the complaint and committed to sentence that during investigation he found prima facie case.

The I.O. has cited five persons as witnesses, witness nos, 1,2 and 3 are the complainant, the son and wife, witness nos. 4 & 5 are the police officers. The proceeding is attended with mala fide as it was filed after the dismissal of the case before the consumer forum when WBSEDCL sent notice of disconnection due to non-payment of bill and ultimately disconnected the service line.

In my humble opinion the proceeding pending before the learned Judicial Magistrate, 2nd Court at Siliguri is attended mala fide should be quashed to avert the abuse of process of law. Accordingly, the revisional application stands allowed.

As submitted by Mr. Chartterjee, the petitioner is no more in service.

With this above observation, the criminal appeal is disposed of.

Let a copy of the judgment along with LCR be sent down to the trial court forthwith.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Siddhartha Roy Chowdhury, J)