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03.02.2023
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C.R.R.642 of 2021
With
CRAN 2 of 2021

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973;

Rabiul Alam @ Md. Rabiul Islam
Versus
The State of West Bengal and another

Mr. Mujibar Ali Naskar.
...for the petitioner.

Mr. Anwar Hossain,
Ms. Sreyashee Biswas.
...for the State.

Mr. Aniket Mitra.
...for the WBSEDCL.

The revisional application was filed challenging Ratua
Police Station Case No.24 of 2015 under Section 135(1)(a) of the
Electricity Act, 2003 pending before the learned Judge, Special 1st
Court, Malda.

Learned advocate appearing for the petitioner has drawn
the attention of this Court to the order dated 02.02.2016 passed in
W.P.10965(W) of 2015. The relevant part of the order is set out as
follows:

“Mr. Salauddin, the learned advocate for the
petitioner has produced a letter written by the
respondent No.5 wherefrom it appears that the
respondent No.5 had admitted to the Inspector-in-
Charge, Ratua Police Station that the case against the

petitioner had been wrongly lodged and it should be corrected as a case against one Smt. Samrat Bibi. The petitioner prays for necessary requisite order to be passed by the respondent No.5.”

A report was earlier filed before this Court in this revisional application by Assistant Engineer and Station Manager, Samsi of WBSEDCL which reflects that the involvement is of one Samrat Bibi, wife of Kamrul and the present petitioner, namely, Rabiul Alam @ Md. Rabiul Islam is not involved in the alleged offence. The relevant part of the said report is quoted below:

“1). An F.I.R. lodged against Rabiul Alam S/o Arsad Ali, Vill+P.O:-Bhado, P.S:-Ratua, Dist:- Malda vide case number 24/15 dated 12/02/2015, against the offence for use of electricity through direct hooking means from the nearby Low Tension Overhead (L.T.O.H.) line to energise his Submersible Tube Well (S.T.W.) set.

2) Accordingly, a professional assessment bill of Rs.213655 (Two Lakh thirteen thousand six hundred and fifty five) has been generated through order number:- SMI/SM/1593 dated 14/02/2015 and handed over to the party with a provisional assessment order bearing Memo No.:-SMI/FIR &GD/1626 dated 17/02/2015.

3) An application from the party was received at the office of the undersigned on 27/02/2015 vide receive number:- 6356, where the party on behalf of himself has denied the corresponding offence.

4) Then the party was called for a hearing by a letter bearing Memo number SMI/FIR & GD/1849 dated 13/03/2015, asking the party to be present before the assessing officer for hearing on 20/03/2015.

5) As the party didn't appeared for hearing, hence another letter for hearing was sent to the party vide Memo number:- SMI/FIR & GD/948 dated 24/11/15, asking for the presence before the assessing officer for hearing on 04/12/2015, ironically repeating the same again absent on the scheduled date. So for third and final time a letter for hearing was issued to the respective party bearing Memo number:-SMI/FIR & GD/1203 dated 28/01/16, notifying the party to be present before the assessing officer for hearing on 09/02/2016.

6) In the meantime upon verification came into light that the actual offender was Samrat Bibi W/O Kamrul Vill+ P.O:-Bhado, P.S:-Ratua, Dist:- Malda and inadvertently the provisional assessment was made in the name of Rabiul Alam S/o Arsad Ali, Vill + P.O:- Bhado, P.S:-Ratua, Dist:-Malda. Following the above a letter vide memo no SMI/FIR & GD/1416 dated 18/02/2016 was issued to Samrat Bibi W/O Kamrul Vill+ P.O:- Bhado, P.S:-Ratua, Dist:-Malda regarding the provisional assessment bill."

Mr. Hossain, learned advocate appearing for the State has submitted a report furnished by Ratua Police Station which

reflects that charge-sheet has been submitted and the warrant of arrest has been issued against Rabiul Alam @ Md. Rabiul Islam and the next date has been fixed on 04.08.2023 for execution of the warrant of arrest which was issued by the court. The said report also reflects that cognizance was taken on 12.03.2015 by the learned special court. Let the report be kept with the record.

In view of the contentions so raised by the parties, I direct that the petitioner without being involved is knocking the doors of the court from the year 2016, i.e. for a period of seven years. The warrant of arrest so issued be stayed.

The Station Manager, Samsi would file an application before the learned special court informing the special court regarding the same contents as has been mentioned in the report filed before the court and for withdrawal of the proceedings. A copy of the same be served upon the learned public prosecutor appearing in the case before the learned special court. The learned special court will check the records of the case, consider the prayer for compounding of the offence as made by the Officer of the Electricity Authority and thereafter drop the proceedings against the petitioner if he is not warranted and has been mistakenly implicated in the instant case.

The Station Manager, Samsi will take out an application within a fortnight from date and the learned special court would dispose of without further harassing the petitioner within one month from the date of communication of this order.

With the aforesaid observations, CRR 642 of 2021 is

disposed of.

Pending application, if any, is consequently disposed of.

Learned special court is directed to act on the server copy of this order duly downloaded from the official website of this Court.

All parties shall act on the server copy of this order 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 compliance of all requisite formalities.

(Tirthankar Ghosh, J.)