

6.10.2023

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C.R.R. 3294 of 2011

In the matter of : Nilratan Singha Roy & Ors.

Mr. S.S.Roy
Mr. D.K. Samanta
Mr. Biswapriya Samanta
...for the petitioners.

Mr. Jayanta Narayan Chatterjee
Ms. Jayashree Patra
Ms. Pritha Sinha
..for the O.P.No.2

Mr.N.P.Agarwal
Mr. Pratick Bose
...for the State.

1. This application under Article 482 of the Code of Criminal Procedure is filed by the petitioners for quashment of criminal proceeding being Special (I.E. Act), beyond case No. 296 of 2010 arising out of G.R.Case No. 958 of 2002 correspondent to Memari P.S.Case No. 127 of 2002 dated 12.8.2002 registered under Section 39(i)(b) of the Indian Electricity Act, 1910.
2. Briefly stated on 12th August, 2002, Assistant Engineer (Commerce), Burdwan District Circle of WBSEB informed the Officer-In-Charge of Memari Police Station in writing that the informant had been to the premises of M/s. Joy Kali Oil Industries Pvt. Ltd. situated at Kenna, Burdwan accompanied by Shri Anubhu Dey, Assistant Engineer(Testing), Shri Subodh Kr. Mandal,

Special Technical Assistant, Shri Subimal Biswas, Senior Linemen , Shri Sudipta Banerjee, S.I. of Police, Memari P.S. and Manabendra Pal, S.I. of Police, Memari attached to Memari Police Station and Inspected the said premises only to find that M/s. Joy Kali Oil Industries Pvt. Ltd. was dishonestly using electricity from the board's mains DE(T), WBSEB affixed on the terminal cover of the meter and the manufacturer's paper sealed on the back of the meter was found tampered. The meter was seized under a seizure list in presence of the persons accompanying the informant and in presence of the representative of the consumer who refused to sign of the seizure list.

3. The information since disclosed offence cognizable in nature Memari P.S. Case No. 127 of 2002 was registered under Section 39(i)(b) of West Bengal Amendment Act, 2001. Police took up investigation which culminated into submission of charge-sheet against the accused persons.
4. Heard Mr. Roy, learned counsel representing the petitioner.
5. It is adverted by Mr. Roy drawing my attention of the Court to the charge-sheet that after investigation police decided not to prosecute the company and submitted charge-sheet in the breach of Section 49(A)(1) of the Indian Electricity Act, 1910. Therefore, according to Mr. Roy, learned trial court had no reason to take

cognizance on that charge-sheet and to commence the trial of the case.

5. Refuting such contention, Mr. Jayanta Narayan Chatterjee, learned counsel representing the opposite party, WBSEB submits that the informant in the written information categorically indicated that the offence was committed by the company M/s. Joy Kali Oil Industries Pvt. Ltd. For the fault committed on the part of the investigating agency, the opposite party, WBSEB should not be made to suffer afterall the charge-sheet submitted by the investigating agency is sufficient to demonstrate prima facie substance in the allegation made by WBSEB.
6. According to Mr. Chatterjee at the end of the day, by an illegal act on the part of the company, not only WBSEB was made to suffer it has an impact on the public exchequer as well.
7. Be that as it may, when the investigating agency having considered the written information registered the case and took up investigation which culminated into submission of charge-sheet against the Directors of the Company in the breach of the statutory provision as laid down under Section 49(A)(1) of the Indian Electricity Act, 1910 and learned trial court also commenced the trial against the Directors ignoring the fact that vicarious liability is alien to the penal laws unless specifically indicated.

8. Under such circumstances, I am of the view that if the proceeding as aforesaid is allowed to remain in force, it would amount to abuse of the process of law. Hence, I am inclined to invoke the provision of Section 482 of the Code of Criminal Procedure and quash the proceeding.
9. The revisional application along with other application is thus, disposed of.

(Siddhartha Roy Chowdhury, J)