

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION No. 685/2021.

Ram s/o Madhavrao Halde,
Aged about 64 years, Occupation
Retired, resident of Shivaji Nagar,
Ner, Tahsil Ner, District Yavatmal.

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PETITIONER.

VERSUS

1.State of Maharashtra,
through its Secretary, Department
of Home, Mantralaya, Mumbai – 32.

2.District Superintendent of Police,
Yavatmal, District Yavatmal.

3.Police Station Officer,
Police Station, Darwaha, Tahsil
Darwaha, District Yavatmal.

4.Dinkar s/o Atmaram Nagpurkar,
Aged about 54 years, Occupation
Service, resident of c/o, Additional
Executive Engineer, Flying Squad
Distribution, Awdhootwadi,
Yavatmal, District Yavatmal.

5.Junior Engineer,
Maharashtra State Electricity
Distribution Company Ltd.,
Ner, District Yavatmal.

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RESPONDENTS.

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Mr. I.S. Charlewar, Advocate for the Petitioner.
Mr.N.R. Rode, A.P.P. for Respondent Nos. 1 to 3.
Mr.A.K. Bangadkar, Advocate for Respondent Nos. 4 and 5.

**CORAM : VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.**

DATE : MARCH 14, 2023.

ORAL JUDGMENT (PER , VINAY JOSHI, J.) :

Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel appearing for respective parties.

2. The petitioner is a consumer of respondent no.5 Maharashtra State Electricity Distribution Company Limited (hereinafter referred to as “the Electricity Company” for short). He has challenged the tenability of the first information report bearing Crime No.743/2021 registered with Darwaha Police Station, Yavatmal for the offence punishable under Sections 135 of the Indian Electricity Act. The petitioner has availed the electric connection for residential purpose. It is his contention that his electric meter was

Rgd.

found not in working condition. The petitioner had approached to the electricity company for repairs or replacement of the meter. According to the petitioner, though he has paid necessary charges, however, the meter was not repaired or changed. Moreover, despite that the officers of the electricity company has lodged a report alleging that on 12.08.2021, the meter was found to be tampered and thus, an offence of theft of energy.

3. With the assistance of learned counsel appearing for the respective parties we have perused the police papers. Undisputedly the petitioner on 15.01.2021, at his own applied to the electricity company for replacement of the meter, since it was found to be not in working condition. On the same day, the officers of the respondent electricity company have inspected the meter and put an endorsement that the meter is not in working condition as terminal was burnt. The petitioner was called to pay meter replacement charges of Rs.968/- by way of intimation dated 26.01.2021. Undisputedly, on the very day, the petitioner deposited the said amount towards meter replacement charges. Thereafter, average electricity bills have been issued to the petitioner, some of which are

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paid by the petitioner, while some remained in arrears. In such a background, officers of the electricity company have allegedly inspected the petitioners electricity meter on 12.08.2021. According to them, the flying squad has observed that the meter was opened and found that there was tampering, therefore, they have filed a report. Petitioner was also called upon to pay the arrears towards energy bill of Rs.24,690/-, which he has paid.

4. On careful consideration we find that undisputedly the petitioner first time brought to the notice of the company that the electricity meter was not in working condition. The petitioner was called upon to deposit meter replacement charges. Admittedly despite deposit of the charges, the meter was not replaced. In the situation, the authorities have inspected the meter, which itself appears to be unreasonable. Already it was reported that the meter is not in working condition, therefore, instead of making it workable, inspection was carried of a faulty meter. Therefore, the entire action, much less such inspection is not sustainable in law. The petitioner has also pointed out that though the flying squad has inspected the meter on 12.08.2021, however, the first information

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report was lodged after 20 days i.e. on 02.09.2021. It is brought to our notice that on 20.08.2021, the petitioner has made a complaint to the police about unauthorized inspection and as a retaliation, the first information report has been lodged. The petitioner has attracted out attention to a Commercial Circular issued by the respondent Company requiring to lodge the first information report within 24 hours from the detection of theft. For all these reasons, the impugned action does not sustain in the eyes of law. In view of that, we allow this Petition.

5. The first information report bearing Crime No.743/2021 registered with Darwha Police Station, Yavatmal for the offence punishable under Sections 135 of the Indian Electricity Act, is hereby quashed and set aside. Rule is made absolute in aforesaid terms, with no order as to costs.

JUDGE

JUDGE

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