

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-31269-2021

Date of decision: 31.08.2023

Parminder Singh

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ashok Bhardwaj, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG, Punjab

Mr. Mandeep K. Dhot, Advocate for respondent No.2

Mr. M.S. Virk, Advocate for respondents No.3 and 4

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.793 dated 29.08.2019, Annexure P-1 registered under Section 135 and 138 of the Electricity Act, 2003 (for brevity, 'the Act') at Police Station Anti Theft PSPCL Ltd. Patiala and challan dated 26.06.2020, Annexure P-3, as well as all consequential proceedings arising therefrom.

2. Succinctly, on 29.08.2019, the aforesaid FIR was got registered under Section 135 & 138 of the Act against the consumer-respondent No.2 and the petitioner with the allegations that theft of electricity had been committed by respondent no.2 and an affidavit had been submitted by her to the effect that this external source was a capacitor cell fixed through Parminder Singh Sekhon (present petitioner) for causing variation in the consumption of the meter, in consideration of which, he took an amount of Rs.12,000/- from her in cash. In

pursuance to bill/show-cause-notice under Section 135 of the Act issued to her, she deposited the compounding fee of Rs.15,000/- and the Assistant Executive Engineer, Distribution Sub Division, Rural Sangrur recommended to quash the FIR registered against her vide letter dated 08.11.2019, Annexure P-4, addressed to Inspector, Anti Power Theft PSPCL. Thereafter, the challan was presented on 21.10.2020, Annexure P-3 only against the petitioner, on the ground that he had tampered with the meter causing the variation in the meter readings and that he had thus committed an offence punishable under Section 138 of the Act.

3. Learned counsel for the petitioner, while relying on **Suresh Ganpati Halvankar vs. State of Maharashtra and Ors.** 2018(5) R.C.R. (Civil) 858, 1 submits that Sections 135 & 138 of the Act, relate to the offence of theft and are compoundable under Section 152. Once the offence stood compounded qua the consumer, and the challan was not presented against her, thus even against the petitioner it could not have been presented. As such, the continuation of proceedings against him are illegal.

4. On the other hand, learned counsel for respondent Nos.3 and 4 submits that the petitioner had tampered with the meter and was rightly challaned under Section 138 of the Act and he had also not paid the compounding fee, therefore, the proceedings against him are in accordance with the provisions of the Act. He prays for the dismissal of the petition.

5. Heard learned counsel for the parties.

6. A gainful reference can be made to the judgment of Hon'ble The Supreme Court in **Suresh Ganpati Halvankar** (supra), wherein while interpreting Sections 135 and 138 of the Act, it had been held that, "It will be seen that both

Sections 135 and 138, which impose a maximum sentence of three years, both deal with theft of electricity. The High Court has taken a very narrow view of Section 152 by stating that an offence of theft is related *stricto sensu* to Section 135 since that section alone deals with the offence of theft, but would not specifically refer to Section 138 which only indirectly relates to the offence of theft. Both the respondent as well as the petitioner before us have moved the High Court stating that Section 138 would also be so subsumed and have continued to argue the same position before us. We are of the view that this is correct in law inasmuch as the language of Section 152 specifically states“an offence of theft” which according to Stroud's Judicial Dictionary, as well as Ramanatha Iyer's Law Lexicon, states that one meaning of 'an' is 'any'. If the word 'any' is substituted for the word 'an' in Section 152, it becomes clear that any offence relating to the theft of electricity is also within the ken of Section 152. Section 138 also relates to theft of electricity, be it through maliciously injuring meters, and is therefore also within Section 152, and can therefore be compounded.”

7. The facts of the present case apparently being that, the petitioner had only on the asking of the consumer-respondent No.2, allegedly tampered with the meter, however, she was let off after depositing the compounding fee in terms of the show cause notice issued under Section 135 of the Act, whereas the petitioner was chargesheeted in the FIR for the offence under Section 138 of the Act, but in view of the aforesaid dictum, both these Sections deal with theft, which is an offence, covered under Section 152 of the Act and can therefore be compounded even qua the petitioner for the offence under Section 138, even if by allegedly tampering the meter of the consumer-respondent No.2.

8. The ends of justice are higher than the ends of mere law and inherent power under Section 482 CrPC is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution as held by Hon'ble The Supreme Court in **State of Karnataka vs. L. Muniswamy and others**, (1977) 2 SCC 699 and in **Parbatbhai Aahir vs. State of Gujarat**, (2017) 9 SCC 641, while expounding the wide and plenitude powers of High Court observed that Section 482 CrPC preserves the inherent powers to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

9. In view of the above discussion, the present petition is allowed and FIR No.793 dated 29.08.2019 registered under Section 135 and 138 of the Act at Police Station Anti Theft PSPCL Ltd. Patiala and challan dated 26.06.2020, as well as all consequential proceedings arising therefrom, are quashed qua the petitioner. However, liberty is granted to respondents no.3 and 4 to issue notice to the petitioner for depositing the compounding fee, in accordance with law.

(AMAN CHAUDHARY)
JUDGE

August 31, 2023
Anjal

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No