

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

1. CRM-M-31214-2021 with
2. CRM-M-31138-2021 with
3. CRM-M-31144-2021 with
4. CRM-M-31146-2021 with
5. CRM-M-31150-2021 with
6. CRM-M-31155-2021 with
7. CRM-M-31186-2021 with
8. CRM-M-31189-2021 with
9. CRM-M-31190-2021 with
10. CRM-M-31193-2021 with
11. CRM-M-31197-2021 with
12. CRM-M-31199-2021 with
13. CRM-M-31204-2021 with
14. CRM-M-31209-2021 with
15. CRM-M-31212-2021 with
16. CRM-M-31213-2021 with
17. CRM-M-31215-2021 with
18. CRM-M-31217-2021 with
19. CRM-M-31220-2021 with
20. CRM-M-31222-2021 with
21. CRM-M-31225-2021 with
22. CRM-M-31230-2021 with
23. CRM-M-31233-2021 with
24. CRM-M-31249-2021 with
25. CRM-M-31251-2021 with
26. CRM-M-31254-2021 with
27. CRM-M-31256-2021 with
28. CRM-M-31260-2021 with
29. CRM-M-31262-2021 with
30. CRM-M-31285-2021 with
31. CRM-M-31397-2021

Date of Decision: 27.02.2023

Surajbhan

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Devinder Singh, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

This order shall dispose of 31 petitions titled above, filed by the

same petitioner in the same set of facts and circumstances arising out of the

CRM-M-31214-2021 (31 cases)

similar FIRs, involving same questions of law.

2. The officials of the electricity department inspected various premises of the consumers of Village Dhankot, District Gurugram and found them indulging in theft of electricity. Loss caused to the department and the compounding charges were assessed for each consumer separately and the consumers were intimated in this regard by way of separate notices. Since the theft penalty amount was not deposited by the consumers, so letters were written by the SDO (OP), New Palam Vihar, Gurugram for registration of the FIR.

3. Following table gives the details of the FIR, the name of the complainant, name of accused/consumer and the total loss to the department.

Sr. No.	FIR No. (All Dated 25.7.2019 registered at I & P, P.S. under Sections 135/138/150 and Indian Electricity Act, 2003.)	Name of complainant	Name of accused (All accused residents of Village Dhankot, NPV, Gurugram)	Total loss (In ₹)
1.	1285	JE 1 New Palam Vihar	Hukam Chand	78442/-
2.	1286	-do-	Karambir	80022/-
3.	1287	-do-	Ball Ram	58137/-
4.	1288	-do-	Kamal Singh	75343/-
5.	1289	-do-	Jeet Ram	73937/-
6.	1290	-do-	Jitender	45416/-
7.	1291	-do-	Sunil Kumar	105488/-
8.	1292	-do-	-	-
9.	1293	-do-	Rattan Singh	27539/-
10.	1294	-do-	Ravinder	92294/-
11.	1295	-do-	Anil Chaudhary	91939/-
12.	1296	-do-	Ramesh Kaushik	79208/-
13.	1297	-do-	Narender Kumar	96520/-
14.	1298	-do-	Sohan Lal	78176/-

CRM-M-31214-2021 (31 cases)

15.	1299	-do-	Khem Chand	46915/-
16.	1300	-do-	Harjeet Singh	62545/-
17.	1301	-do-	Rekha Kumari	35479/-
18.	1302	-do-	Mahesh Kumar	46015/-
19.	1303	-do-	Desh Raj	199737/-
20.	1304	-do-	Ram Nath Bhatia	57447/-
21.	1305	-do-	Ram Dhare	65786/-
22.	1306	-do-	Asha Rani	87361/-
23.	1307	-do-	Hari Ram	90002/-
24.	1308	-do-	Manmohan Singh	96103/-
25.	1309	-do-	Prem Devi	82425/-
26.	1311	-do-	Balwant Singh	102010/-
27.	1312	-do-	Ishwar Singh	68731/-
28.	1313	-do-	Kartar Singh	85252/-
29.	1314	-do-	Nathu Ram	84174/-
30.	1315	-do-	Sanjay	49517/-
31.	1316	-do-	Anita	120592/-

4. The contention of the petitioner is that all the FIRs were registered against the consumers, who have paid the theft money by making payment of the composition fee and so, offences stand compounded in terms of Section 152 of The Electricity Act. Petitioner is neither the beneficiary nor involved in the offence in any matter nor named in the FIR. He has been implicated on the basis of his own disclosure statement, as per which he along with Mohit Bhardwaj @ Goldy and Surender had tempered the electricity meters of the consumers involved in the above said FIRs. It is contended that said disclosure statement has no evidentiary value and since the offences in question are compoundable and the consumers have already paid the composition fee, so continuation of the criminal proceedings against the petitioner shall be just, unfair and illegal.

5. As per the reply filed by the respondent, law was set in motion

CRM-M-31214-2021 (31 cases)

in all the cases on the basis of written complaint moved by the SDO (OP) contending therein the theft of electricity by the consumers. Loss caused to the department was also stated in all the FIRs. Consumers were called upon to compound the offence by way of payment of penalty but as the same had not been done, so the FIRs were got registered. It is further submitted that during interrogation in case FIR No.1306 dated 25.07.2019, petitioner suffered disclosure statement, as per which he along with co-accused Surender were instrumental in tampering the electricity meter belonging to the consumers, for which they had charged ₹5,000/- each from each consumer and had distributed the amount in equal parts. Upon completion of investigation final report has already been filed before the Court of competent jurisdiction to prosecute the petitioner under Section 135, 138 & 150 of The Electricity Act, 2003 and the case is now fixed for prosecution evidence. It is submitted further that contention of the petitioner for compounding of the offence is misconceived, as petitioner is neither the consumer of the department nor has any relation with the department. Rather, he is a third party, who was instrumental and was acting in league with the co-accused, as he had caused the tampering of the electricity meters of the various consumers, leading to the substantial loss to department. It is further submitted that instruments used by the petitioner for the purpose for tampering of the electricity meters had been recovered at his instance in case FIR No.1306 dated 25.07.2019. It is, however, conceded that proceedings against the consumers have been dropped on account of the deposition of the penalty by them. However, it is submitted that petitioner cannot claim parity with the consumers. With these submissions, prayer is

CRM-M-31214-2021 (31 cases)

made for dismissal of all the petitions.

6. Having considered submissions of both the sides, I find no merit in the petitions.

7. It is conceded position that petitioner is not the consumer of the electricity department and rather, he is a third party. Allegations against him are that he along with the co-accused tampered with the electricity meters of the consumers, leading to the loss to the department. It is also conceded position that matter has already been compounded by the department with the consumers on payment of the composition fee. The question is that whether in such circumstances, proceedings against petitioner are liable to be quashed or not.

8. Section 135 of the Electricity Act, 2003 provides about the theft of electricity. Relevant part of the said provision reads as under:

“135. Theft of electricity. - (1) Whoever, dishonestly, --

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity; or

(d) uses electricity through a tampered meter; or

CRM-M-31214-2021 (31 cases)

(e) uses electricity for the purpose other than for which the usage of electricity was authorised,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.”

9. On the other hand, Section 138 of the Act provides about interference with the meters or works of license. Relevant portion of said provision reads as under:

“138. Interference with the meters or works of license. - Whoever, -

(a) unauthorisedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line; or

(b) unauthorisedly reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected; or

(c) lays or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee; or

(d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or willfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering;

shall be punishable with imprisonment for a term which may extend to”

10. Section 150 of the Act provides about the abetment of an offence punishable under the Act; whereas Section 152 provides about the

CRM-M-31214-2021 (31 cases)

compounding offences.

11. The relevant portion of Section 152 reads as under:

“152. Compounding of offences. - (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973, the Appropriate Government or any officer authorised by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence, as specified in the table below:”

Thereafter, a table is provided specifying the amounts of the compensation fee as per the nature of the service and the rate at which composition fee is to be collected.

12. What is important to notice on bare perusal of Section 152 of The Electricity Act is that composition is permissible only with a consumer or any person, who committed or is reasonably suspected of having committed an offence of theft of electricity. As noticed earlier that offence of theft of electricity is provided under Section 135 of The Electricity Act. The offence of interference with meters or works of license as provided under Section 138 of The Electricity Act is a separate and distinct offence, which is not compoundable, because it is only offence of theft of electricity, which has been made compoundable by the Legislature.

13. This distinction was also noticed by Bombay High Court in ***Suresh Ganpati Halvankar v. State of Maharashtra 2017(2) AIR Bom. R (Crl) 730*** wherein it was held as under:

“18. [Section 152](#) of the Electricity Act, 2003 categorically prescribes that the offence of theft of electricity is compoundable. If one peruse the

CRM-M-31214-2021 (31 cases)

provisions of [Section 138](#) of the Electricity Act, 2003, then it is clear that the offence defined therein is a totally distinct offence than the one defined by [Section 135](#) thereof. Ingredients of [Section 135](#) of the Electricity Act, 2003 which deals with the theft of electricity and those of [Section 138](#) of the Electricity Act, 2003 dealing with interference with meters and work of licensee are totally different. [Section 138](#) does not deal with theft of electricity. On the contrary, it deals with interference with meters and works of licensee. These two different Sections operate in two different fields and [Section 138](#) of the Electricity Act, 2003 is not concerning with the theft of the electricity. The applicants/accused are convicted of the offence punishable under [Section 138\(d\)](#) of the Electricity Act, 2003 of which malicious fraudulent and willful acts are main ingredients. Therefore, though object of the [Electricity Act](#), 2003 regarding theft of electricity is having focus on collection of revenue, [Section 138](#) which operates in totally different field cannot be included as an offence compoundable in terms of [Section 152](#) of the Electricity Act, 2003. Intention of the legislation not to make this Section compoundable is clear and writ large from the wordings of [Section 152](#) of the Electricity Act, 2003. The learned counsel appearing for the intervenor has rightly relied on Judgment in the matter of State Bank's [Staff Union v. Union of India](#) (supra), wherein the Honorable Apex Court has held that when provisions of statute are clear and unambiguous, external aid cannot be taken for interpreting those clear terms of the statute by resorting to objects and reasons of the statute.”

14. The allegations in this case against the petitioner are regarding tampering of the electricity meters of the various consumers, which is a distinct and separate offence under Section 138 of The Electricity Act and

CRM-M-31214-2021 (31 cases)

the same is not compoundable as per the legal position discussed above.

15. To buttress his contention and to support his case for compounding, learned counsel for the petitioner has referred to following judgments which are as follows:

(i) *Shiv Pal v. State of Haryana, (Punjab and Haryana) : Law*

Finder Doc Id # 2000516

(ii) *Satish Kumar v. State of Haryana, (P&H) : Law Finder Doc*

Id # 195724

(iii) *Saleem Ahmed v. State (SC) : Law Finder Doc Id # 1564428*

16. However in all the above cases, the offence involved was under Section 135 of The Electricity Act only and on payment of the composition fee, the offence was held to be compoundable. Offence under Section 138 of The Electricity Act was not involved in those cases and therefore, the cited authorities are of no help to advance the case of the petitioner.

17. The alternative contention made by learned counsel for the petitioner is that he is facing trial in 31 cases and so, Trial Court be directed to hear all the cases together. Petitioner will be at liberty to put forth any such grievance before the concerned Trial Court, who will deal with this aspect in accordance with law.

18. Consequent to the entire discussion as above, it is held that there is no merit in any of these petitions. All these petitions are hereby dismissed.

February 27, 2023

Neetika Tuteja

**(DEEPAK GUPTA)
JUDGE**

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No