

19.08.2024
Item No.03+04
RP/AN
Ct. No.1

M.A.T. 371 of 2024
Ms. Saheli Das
Vs.
The West Bengal State Electricity Distribution
Company Limited & Ors.

With

M.A.T. 372 of 2024
Ms. Saheli Das
Vs.
The West Bengal State Electricity Distribution
Company Limited & Ors.

Mr. Rajdip Bhattacharya
Mr. Debapratim Guha
Ms. Anchita Sarkar
.....For the Appellant
Mr. Sankar Banerjee
.....For WBSEDCL

1. This intra-Court appeals filed by the appellant, who was the private respondent in WPA 12911 of 2022 and WPA 16770 of 2022, are directed against the judgment dated 13th February, 2024 passed in the applications filed by the private respondent. These applications were filed by the appellant herein under Section 340 of the Criminal Procedure Code alleging that certain forged documents have been annexed to the writ petitions and statements have been made in support thereof which are false and intended to practice fraud upon the Court. The Court elaborately considered various provisions of the Criminal Procedure Code and then proceeded to examine the fact and has recorded

the findings with regard to two documents, which according to the appellants, were forged documents. At this juncture, it will be relevant to take note of paragraph nos.22 and 23 of the impugned judgment which are quoted hereinbelow.

“Taking the certificate of enlistment first, even without going into the veracity of the defence of the writ petitioner, the use of the word “provisional” and the reference to a previous period of 2017-2018 would not be germane to the outcome of the writ petition. Even a provisional certificate of enlistment of a period some time prior to filing of the writ petition *prima facie* would have shown that the writ petitioner is in possession of the property, at least to the extent that a distribution licensee or a writ court taking up an electricity matter is supposed to examine.

Similarly, in the leave and license agreement, even if the interpolated dates were ignored, the conclusion that there was a leave and licence agreement in favour of the writ petitioner commencing from September 13, 2018 and ending on September 13, 2021 that is before the filing of the writ petition, would have been *prima facie* established. It also has to be considered that the interpolations did not score through or erase the original dates but were merely added above the said dates. Arguably, it may very well be that a copy of the original leave and licence was in the custody of the

present applicant who has annexed the same to the present applications under Section 340, CrPC whereas the original document or a copy where the said date was subsequently introduced was in the custody of the writ petitioner and not with the present applicant. Even taking the worst case against the writ petitioner, it would at best be arguable as to what would be the legal effect of a unilateral interpolation of dates by the writ petitioner in the leave and licence agreement. However, such interpolation ipso facto may not necessarily amount to 'forgery' as contemplated in Section 463 of the IPC."

2. On careful examination of the findings recorded by the learned Single Bench we find that the learned Single Bench had examined the factual position and recorded its finding and we are of the view that there is nothing perverse for us to interfere with the said findings in this intra-Court appeals. That apart, in the penultimate paragraph of the impugned judgement the right of the appellant has been sufficiently safeguarded wherein the learned writ Court has made it clear that the findings have been rendered in the limited context on dealing with the applications under Section 340 of the Criminal Procedure Code and are confined to the allegations pertaining to whether the ingredients of the said provisions are attracted in connection with the dealings

before this Court and nothing in the observations shall prejudice the outcome of the independent criminal case/investigation, if any, otherwise going on against the writ petitioner on the complaint of the appellant/applicant in respect of the selfsame documents.

3. Thus, we find no ground to interfere with the impugned judgment. Hence, the appeals are dismissed.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)