

06.08.2024

SL. 50
Court No. 551
Sourav

C.R.R. 2911 of 2005

In Re: an application under Section 482 of the Code of Criminal Procedure, 1973.

And

In the matter of: **Chinmoy Gorai**

... petitioner.

Mr. Soumik Ganguli
Mr. Supriyo Shasmal

... for the petitioner.

Mr. Aniket Mitra

... for the opposite party no. 2/WBSEDCL.

Mr. Pratick Bose

... for the State.

1. On behalf of the petitioner, an accommodation has been prayed for. Considering the fact that the instant case is pending since 2005. Prayer for accommodation is considered and rejected.
2. By filing the instant application under Section 482 of the Code of Criminal Procedure, the petitioner who is an accused in Taldangra P.S. Case No. 31 of 2004 dated 01.09.2004 as initiated under Section 135(1)(c) of the Electricity Act read with Section 379 IPC has approached this Court for quashing of the charge-sheet as submitted in connection with the said case.
3. On perusal of the entire materials as available in the case record, it reveals that one written complaint was lodged by one Pioranjan Chakravorty, Divisional Engineer (E) SLP, Bankura Unit with the Officer-in-Charge, Taldangra P.S., Bankura to the effect that the present petitioner has committed theft of electricity under Section 135 of the Electricity Act read with Section 379 IPC and the same was

detected on 01.09.2004 at about 14.00 hours when the informant along with other officials of the WBSEB (now WBSEDCL) entered the premises of the accused and found such theft at the instance of the accused. It is the further allegation of the informant that during inspection, it reveals that relays, transformer and soldering were opened and the electric meter was tampered.

4. As discussed earlier on the basis such written complaint, investigation was taken up and on completion of the same, charge-sheet no. 41 of 2004 under Section 135(1)(c) of the Electricity Act, 2003 read with Section 379 IPC was submitted against the accused which is the subject matter of the instant petition.
5. On perusal of the photocopy of the charge-sheet which has been annexed with the petitioner under consideration, it reveals that in course of investigation, the investigating officer collected sufficient materials at least *prima facie* to substantiate the allegation as made out in the FIR and thus, submitted the charge-sheet against the accused.
6. This Court has meticulously gone through the grounds which have been mentioned in the petition under consideration for invoking the inherent power of this Court under Section 482 Cr.P.C. One of the grounds as taken in the petition under consideration is that the learned trial Court is not supposed to take cognizance of the offence except upon a complaint in writing by the appropriate government or by any officer of them who has been empowered by the competent authority to do so.

7. In considered view of this Court, the question which has been raised before this Court as a ground for invoking the provision of Section 482 of the Code of Criminal Procedure can very well be urged before the learned trial Court.
8. In view of such, this Court finds no reason to exercise its inherent power under Section 482 Cr.P.C. as prayed for.
9. Accordingly, the instant petition being **CRR 2911 of 2005** is dismissed.
10. The interim order of stay, if therebe any, stands hereby vacated. All pending interim applications are hereby disposed of.
11. However, liberty is given to the petitioner to urge the point of taking cognizance by the learned trial Court afresh, if not taken in the meantime, especially on the alleged ground of non-competency of the informant in lodging the FIR.

(Partha Sarathi Sen, J.)

