

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 3457 of 2011

**Rameshwar Ghosh @ Bidhu Ghosh
-Vs-
The State of West Bengal & Anr.**

For the Petitioner : Mr. Tanmoy Chowdhury
Mr. Ritoprita Ghosh

For the Opposite Party No.1 : Mr. Avishek Sinha

For the Opposite Party No.2 : Mr. Aniket Mitra

Heard on : 17.10.2023, 07.02.2024, 05.04.2024,
06.08.2024

Judgment on : 06.11.2024

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioner praying for quashing of the proceedings, being G.R. Case No.1047 of 2010 arising out of Arambagh Police Station Case No.394 of 2010 dated 1st Day of December, 2010 under Section 135(1)(a) of the Electricity Act, 2003 (as amended upto-date) and an order of cognizance dated 15th day of January, 2011 taken by the court of the Learned Additional Chief Judicial Magistrate at Arambagh, District – Hooghly in the charge-sheet no.427 dated 29th day of December, 2010 under Section 135(1)(a) of the Electricity Act, 2003 against petitioner.

2. The petitioner contended to be a bona fide consumer of the West Bengal State Electricity Distribution Company Limited in respect of Permanent Service Connection No.16296 bearing Consumer No.E046453 corresponding to Consumer ID No.164176950 at his premises and paid the electric bills raised by the Distribution Company Limited.
3. On 1st day of December, 2010, the Station Manager attached to the Asanpur Group Electric Supply under the West Bengal State Electricity Distribution Company Limited suddenly visited the premises of the petitioner along with other officials and asked the petitioner to allow them to inspect the meter box to detect the source of electricity consumption.

The officials inspected the meter box and did not find any anomaly or discrepancy in the meter.

4. The officials subsequently demanded a lump-sum amount from the petitioner who expressed his inability to fulfil the same.
5. Petitioner further stated to have been threatened by the officials of the Distribution Company Ltd. on failure to fulfil their demand, he would be thrust with a theft case in future.
6. Being agitated, on 1st day of December, 2010, the said Station Manager attached to the Asanpur Group Electric Supply West Bengal State Electricity Distribution Company Limited, Hooghly lodged a false complaint, being Arambagh Police Station Case No.394 of 2010 dated 1st day of December, 2010 under section 135 (1) (a) of the Electricity Act, 2003 (as amended upto-date) against the petitioner.
7. Learned Advocate for the petitioner submitted as follows:-

- i. From the documents annexed to the petition, it was crystal clear that on the basis of a printed First Information Report lodged by the opposite party no.2 herein, the instant criminal case had been started. From the said First Information, it would be further evident that the alleged offence committed by the petitioner had not been specifically stated by the de facto complainant (opposite party no.2 herein).
- ii. From the seizure list allegedly prepared by the de facto complainant (opposite party no.2 herein), it would not be evident that the category of consumer had been described as submersible. The service connection of the petitioner was domestic in nature and he was not running any submersible pump because the inspection was made at his premises not in the agricultural field.
- iii. Submersible pump or any motor or other machineries of such submersible pump had not been seized by the opposite party no.2 (de facto complainant).

8. Considered the submissions of Learned Advocate for all the parties.

9. Section 135(1)(a) of the Electricity Act, 2003 states as follows:-

“Section 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....”

10. Section 135 as aforesaid relates to “theft of electricity”. Interference with meters or work of license, tapping of electricity, making or causing to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee; tampering of meter, installation or use of tampered meter, 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; damaging or destroys of an electrical meter, apparatus, equipment, use of electricity through a tampered meter; use of electricity for the purpose other than for which the usage of electricity was authorized constitute “theft of electricity” and constitute “offence” under Section 135 of the Electricity Act, 2003.”
11. The Learned Advocate representing the State had submitted a copy of the case diary which reflected charge-sheet to have been submitted after completion of investigation in the instant case. The materials on record reflected seizure of 20 ft. single core 3/22 copper wire with hooking device from the premises of Bidhu Ghosh, village- Malaypur (Gaylapara), P.O.- Malaypur, P.S.- Arambagh in the presence of Asit Baran Ganguly and Naran Chandra Sinha.
12. The inspection report dated 01.12.2010 indicated the type of abnormality to be “direct hook”.
13. The process of investigation culminating in the charge-sheet established a prima facie offence as alleged by the complainant which required recording of evidence to unravel the truthfulness of the allegations through trial. The

claim of the petitioner to consume electricity for domestic purposes contrary to commercial consumption, the non-seizure of a submersible motor etc. are to be verified at the trial.

14. The Learned Trial Court will deal with the materials on record accordingly and in case the complaint is detected to be false will grant appropriate orders to redress the cause of the petitioner.
15. In view of the above discussions, the instant criminal revisional application being C.R.R. 3457 of 2011 is dismissed.
16. There is no order as to costs.
17. Case diary, if any, be returned forthwith.
18. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.
19. All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(Ananya Bandyopadhyay, J.)