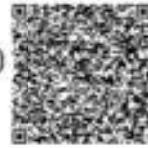


CRM-M-24549-2024(O&M)

#1#

2024.PHHC.106750



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

CRM-M-24549-2024(O&M)

Date of Decision:-20.08.2024

Bajrang Lal Aggarwal.

.....Petitioner.

Vs.

State of Haryana & Ors.

.....Respondents.

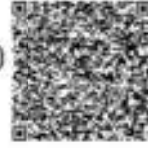
CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Aditya Sanghi, Advocate for the Petitioner.

JASJIT SINGH BEDI, J.(ORAL)

The present petition under Section 482 Cr.PC is for setting aside the order dated 03.10.2023 (Annexure P-1) passed by Sessions Judge, Rewari whereby the revision petition filed by the petitioner against the order dated 5.10.2018 (Annexure P-2) passed by Additional Chief Judicial Magistrate, Rewari dismissing the complaint titled as Bajrang Lal Aggarwal Vs. Mukesh Gupta, Superintending Engineer (OP) and Ors No.CRR/205/2018 has been dismissed.

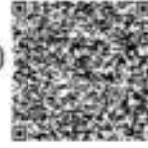
2. The brief facts as mentioned by the complainant in the complaint are that he was a retired Senior Officer from a nationalized bank and was having electricity connection no. AJ-ID-2237 installed in his house. This connection was installed in July 2009 with sanction load of 11 KW and he had been regularly paying the electricity bills from time to time as raised by the Nigam. On 28.04.2012, the accused no.3 (respondent no.4) visited his house and disconnected the electricity connection and also removed the electricity meter.



He came to know that the officials of DHBVNL had allegedly detected a theft of electricity in his premises on 21.04.2012 in his absence. On 28.04.2012, he visited the office of DHBVN and came to know that memo nos. 1797 and 1798 dated 25.04.2012 were issued by (Kaspana) accused no.2 (respondent no.2). He also came to know that a LL-1 dated 21.04.2012 was prepared by the accused nos. 3 to 5 (respondent nos.4 to 6) and a lineman named Ravinder. The whole procedure of the alleged inspection and issuance of memos on the basis of LL-1 were illegal, against rules and in violation of the various circulations issued by the department. The accused being public servants entered into a criminal conspiracy by disobeying the law and by way of misusing their powers with an intention to cause injury/loss to him had framed incorrect documents with a intention to cause wrongful loss to him. The accused nos.3 to 5 (respondent nos.4 to 6) had deliberately and intentionally framed a false charge of theft of electricity while the accused no.2 (respondent no.2) had raised an illegal demand of Rs 7,40,062/ by wrongly calculating the assessment amount vide order bearing memo nos. 1797 and 1798 dated 25.04.2012. Certain other irregularities had been committed by the accused. He had enquired from accused no.1 vide letter dated 20.03.2014 as to whether a lineman was authorized to be a member of inspecting team or not and in the reply submitted by the accused no.1, he had wrongly stated that a lineman could be a member of the inspecting team, if the team was headed by an authorized person and such a reply was in violation of the sale circulation no. D-43/2007. He had also filed a civil suit against the electricity department challenging the memo nos. 1797 and 1798 dated 25.04.2012. Therefore, the accused were liable to be summoned to face Trial.

3. In order to prove his averments, the complainant examined

Raheesh Kumar, CA as CW1, Manjeet Kumar, CA as CW2, Amit Kamboj.



XEN (again) as CW2; himself as CW3; Sandeep Ahlmad as CW4; Vinod Kumar, SDO as CW5; Vineeta Singh, SE as CW6; Anil Kumar, SE as CW7; Subhash Chand as CW8; Raj Kumar, JE as CW9 and Mayank Rao, CA as PW10. In documentary evidence, the complainant placed on record certain documents as Ex.CW1/1 to Ex.CW1/23, Ex.CW2/1, Ex CW3/1 to Ex.3/53, Ex.CW5/1 to Ex CW5/17, Ex.CW6/1 to Ex.CW6/5, Ex CW7/1 and Ex.CW7/2, Ex CW9/2 and Ex.CW10/1, which are the applications, notices, letters, memos, postal receipts, affidavits, plaint, appeal, reports, information under RTI etc.

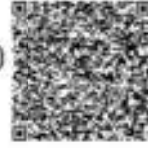
4. Based on the evidence led the complaint came to be dismissed vide order dated 05.10.2018 passed by Additional Chief Judicial Magistrate, Rewari. The copy of the said order is attached as Annexure P-2

5. A revision petition was preferred before the Court of Sessions Judge, Rewari, which came to be dismissed vide order dated 03.10.2023 (Annexure P-1).

6. The aforementioned judgments are under challenge in the present petition.

7. The Counsel for the petitioner contends that the courts below ignored the fact that the accused were hand in glove with each other and had fabricated/alterd/tampered with multiple documents to justify their claim that the petitioner had committed the theft of electricity. The intention was to cause wrongful loss to the petitioner thereby committing the offence of cheating. An illegal demand of Rs.7,40,062/- had been raised by wrongly calculating the assessment order. On account of the act and conduct of the private respondents, the complainant had to pay a huge amount of money illegally for excess load and for fixed charges causing financial loss to him.

He therefore, contends that the impugned judgments were liable to be set



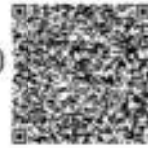
aside and the private respondents ought to be summoned to face trial.

8. I have heard counsel for the petitioner and gone through the record.

9. None of the alleged acts on the part of the accused as detailed in the complaint could be said to be an intentional disobedience of law to cause injury to the complainant. From the evidence brought on file by the complainant, it is not proved that any incorrect document was prepared by the accused. There were clear allegations of theft of electricity on the part of the complainant for which the premises of the complainant was checked by the Nigam officials and the electricity meter consequently removed after disconnection of electricity. In such cases, there is no question of issuance of prior notice to the violator, as upon notice, he would definitely get vigilant and would probably remove the means by way of which theft of electricity was being committed. It is further mentioned in the complaint by the complainant that the assessment amount in respect of memo nos. 1797 and 1798 was wrongly calculated. Even if this was so, it could have been got corrected by approaching the Nigam officers.

10. The premises of the complainant were allegedly raided by the raiding team of the electricity department on 21.04.2012 and this complaint has been filed on 11.09.2014 after about two and a half years of the alleged occurrence. No acceptable explanation has been given by the complainant with regard to the long delay in filing this complaint. In-fact, the complainant in his complaint has stated that he was advised to file a civil suit, which he did file, and after disposal of the suit to file a complaint. As per the complainant, he did not wait for disposal of the civil suit and proceeded further to file this complaint.

11. The correctness of memo nos. 1797 and 1798 dated 25.04.2012

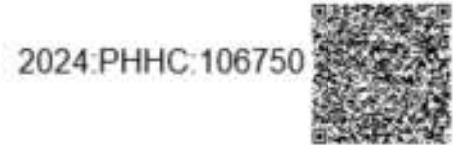


and also the procedure adopted by the accused was to be determined by the civil court and even if the civil Court has found that the memo nos. 1797 and 1798 were not issued after following the prescribed procedure, it does not in any way amount to the commission of any criminal act by the accused intended to cause wrongful loss to the complainant or framing of incorrect documents with intent to cause injury to the complainant.

12. There is nothing on record to show that the accused had any past enmity with the complainant. The impugned memos were apparently issued after routine checking in the premises of the complainant and after finding theft of electricity committed by him, which was in-fact causing wrongful loss to the electricity department.

13. In the judgment dated 20.12.2017 passed in Civil Suit No.333/20121 filed by the complainant, while decreeing the suit the Court had set aside the impugned notices only on the ground that the same were issued without following the due process of law. Therefore, as per the judgment of the Civil Court, it was only a procedural irregularity leading to the issuance of the impugned notice upon the complainant and nothing else.

14. From an examination of the material on record in light of the rival contentions, as per the complainant, the accused had disconnected the electricity connection and had removed the meter to cause loss to the complainant illegally. An application under Section-340 Cr.P.C. and appeal under Section-341 Cr.P.C. regarding forgery of documents was dismissed vide order dated 31.08.2016 and 20.11.2018 respectively. After the decision of the civil suit in favour of the complainant, electricity bills of nil value are being issued since April 2019. Further all acts done by accused were in discharge of their official duties. Section-168 of the Electricity Act provides for protection of action taken in good faith. In view of above material facts



and circumstances, the impugned order does not suffer from any illegality.

15. Therefore, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

August 20, 2024
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>