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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 2700/2021 & CRL.M.A. 17272/2021**

ASHOK KUMAR KHURANA Petitioner

Through: Mr. Rajat Aneja,
Mr. Rishabh Jain and
Mr. Amitanshu Satyarthi,
Advs.

versus

BSES RAJDHANI POWER LIMITED

BRPL & ORS. Respondent

Through: Mr. Sharique Hussain,
Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **16.02.2024**

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (**CrPC**), challenging the summoning order dated 23.12.2019, passed by the Additional Sessions Judge, Special Court (Electricity), Dwarka, New Delhi, in complaint case bearing CC No. 1679/2019, titled as *BSES Rajdhani Power Ltd. v. Ashok Kumar & anr.*

2. The complaint was filed by Respondent No. 1 under Section 135 read with Section 150/151 of the Electricity Act, 2003, alleging that on inspection of the premises belonging to the petitioner, it was found that there was a theft of electricity which was further connected to the electricity meter of the premises.

3. It is alleged that Meter No. 29013955 was installed in the adjoining premises of the petitioner and the same was disconnected in the year 2017.

4. He submits that there was a theft of electricity by tapping



the electricity cables installed for the purpose of supplying the electricity to the adjoining meter being Meter No. 27108823.

5. The learned counsel for the petitioner submits that there are no two premises. The property where both the meters were installed is one composite property of 3300 square yards property, which was purchased by the petitioner pursuant to the Sale Deed dated 05.08.1981.

6. He submits that for the purpose of convenience, the petitioner had got two meters installed in the same premises for catering two different activities.

7. He submits that after the disconnection of the Meter No. 29013955, the petitioner has been using the other meter being Meter No. 27108823, for the purpose of catering to the electricity needs of the entire premises. He submits that the bill, as generated by the Respondent No. 1, has been duly paid.

8. He further submits that after the inspection of the premises, Meter No. 27108823 was disconnected, and the same was reinstalled by Respondent No. 1 itself, which would not have been done, unless the meter is cleared from allegation of theft.

9. He submits that only because two meters are installed for the purpose of convenience on an earlier occasion, would not lead to a presumption of theft of electricity.

10. *Prima facie*, if the entire premises belong to the petitioner and has not been partitioned as argued, the petitioner would be entitled for catering to the electricity needs of the entire premises. The same, in the opinion of this Court, can be done from one meter itself, subject to sanction of the appropriate load and other formalities as required.

11. The learned counsel for Respondent No. 1, however, submits that the present case is a case where the wires were being



tapped in between. He has indicated a diagram which was prepared at the time of inspection in order to show that before the wires from the poll reached Meter No. 27108823, they were tapped in between and the electricity was supplied to the rest of the premises.

12. The learned counsel for the petitioner submits that the diagram and the allegations are contrary to the video recording, which was done by Respondent No. 1 at the time of inspection.

13. He submits that even though the argument has been raised and the inspection report mentions that there was an illegal tapping, however, the same is not borne out from the record produced, before the learned Trial Court. He submits that this is not even the case of the respondent.

14. He submits that Respondent No. 1 had filed the complaint only because electricity connection from the one meter installed in the premises was disconnected, and now the electricity is supplied from the other meter, which is also installed in the same premises.

15. He submits that the petitioner is not disputing that he requirement of the electricity for the entire premises is being fulfilled from the Meter No. 27108823. He submits that the petitioner is paying all the bills as generated by the respondent department.

16. The charges, in the present case, are yet to be framed.

17. There is substance in the argument raised by the learned counsel for the petitioner that the entire premises belongs to the petitioner and the same has not been partitioned. Only because the meter, which was installed on an earlier occasion for the purpose of convenience, has been disconnected and now electricity requirement is catered for the entire premises from one



meter, would not amount to theft of electricity.

18. Since charges are yet to be framed, this Court considers it apposite to dispose of the present petition and direct the learned Trial Court to consider the arguments on charge, keeping in mind the aforesaid observations.

19. No further orders are required to be passed at this stage.

20. The petitioner is at liberty to challenge any order that may be passed by the learned Trial Court after hearing the arguments on charge.

21. The learned counsel for the petitioner submits that the petitioner is aged seventy three year old, suffering from kidney failure and his appearance may not be insisted upon by the learned Trial Court.

22. The petitioner is at liberty to file an appropriate application for exemption from appearance before the learned Trial Court. As and when any such application is filed, the learned Trial Court is expected to consider the same sympathetically.

23. The present petition, along with the pending application(s), is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

FEBRUARY 16, 2024

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