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

+ **CRL.A. 646/2022**

RAJNI

..... Appellant

Through: Mr. Zeeshan Diwan and Mr. Ahmed Faraz, Advocates.

versus

BSES RAJDHANI POWER LIMITED

..... Respondent

Through: Mr. Sharique Hussain and Mr. Raghav Awasthi, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.03.2024

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CRL.M.A. 26579/2022 (for condonation of delay)

1. This is an application filed by the Appellant under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 15 days in filing the appeal.
2. Issue notice.
3. Mr. Sharique Hussain, learned counsel accepts notice on behalf of the Respondent.
4. For the reasons stated in the application, the same is allowed.
5. Delay of 15 days in filing the appeal is condoned.
6. Application stands disposed of.

CRL.A. 646/2022 and CRL.M.(BAIL) 1534/2022 (for suspension of sentence)

7. This appeal has been preferred by the Appellant under Section 156 of



the Electricity Act, 2003 (hereinafter referred to as the 'Act, 2003') against the judgment of conviction dated 18.08.2022 and order on sentence dated 24.08.2022 passed by the learned Additional Sessions Judge (Special Electricity Court), South West District, Dwarka Courts, Delhi, in C.C. No.102/2017, titled '*BSES Rajdhani Power Ltd. v. Ms.Rajni & Anr.*'.

8. Factual matrix to the extent necessary is that on 30.12.2015, a team comprising of BSES officials raided premises opposite B/9-C, Gali No.6, Sabzi Mandi Road, Shani Bazar, Uttam Nagar, New Delhi, near Pole No.VKP N 719, wherein Appellant was allegedly found indulging in direct theft of electricity and of using the same for domestic purposes. Pursuant to the said raid, complaint was filed against the Appellant and Late Makhan Lal under Section 154 of the Act, 2003 before the Court of learned District and Sessions Judge, Dwarka alleging that no electricity meter was found installed at the premises and Appellant was indulging in using electricity illegally and direct taping through illegal cable connection with the BSES pole and thus acting dishonestly with an intention to make unlawful gains and cause unlawful loss to the Complainant and the Appellant was thus liable to pay Rs.76,318/- for wrongful abstraction and consumption of electricity.

9. The Trial Court vide order dated 25.08.2017, took cognizance of the complaint and summons were issued to the Appellant and co-accused. During the pendency of the proceedings, co-accused Makhan Lal died and proceedings qua him were abated vide order dated 10.11.2017. Appellant was granted bail on 20.09.2018. Respondent examined three witnesses while Appellant examined one witness and after hearing final arguments, judgment was pronounced by the learned Trial Court on 18.08.2022



convicting the Appellant for offence punishable under Section 135 of Act, 2003. By an order on sentence dated 24.08.2022, Trial Court sentenced the Appellant to undergo simple imprisonment for a period of 9 months and fine of Rs.1,07,827.50 and in default of fine, simple imprisonment for a period of 1 month. Insofar as civil liability under Section 154(5) of Act, 2003 was concerned, the same was determined as Rs.71,885/-. Benefit of Section 428 of Cr.P.C., if any, was given to the Appellant, as per law.

10. During the pendency of the Appeal, parties were referred to the Delhi High Court Mediation and Conciliation Centre to explore the possibility of amicable resolution of their disputes. Settlement was arrived at between the parties and a Settlement Agreement dated 13.03.2023 was executed on the following terms:-

“a) The instant Settlement has been arrived at only with respect to the Civil liability imposed vide orders dated 18.08.2022 and 24.08.2022.

b) That the Second Party agreed to accept a sum of Rs.54,000/- (Rupees Fifty Four Thousand Only) towards the civil liability in lieu of the entire civil liability of Rs.71,885/- (Rupees Seventy One Thousand Eight Hundred Eighty Five Only) towards full and final settlement of the grievance/losses to the Second Party against the Case ID No. RW301215CB147.

It is agreed between both the parties that the above mentioned settled amount i.e. Rs.54,000/- (Rupees Fifty Four Thousand Only) shall be deposited by the First party with the Second Party by way of RTGS/NEFT/Demand Draft in the name of 'BSES Rajdhani Power Ltd ENF.

CA. 400810084' in 11 monthly installment:-

i. Rs. 20,000/- (Rupees Twenty Thousand Only) payable by 25.03.2023

ii. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.04.2023.

iii. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.05.2023.

iv. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.06.2023.

V. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable



by 25.07.2023.

vi. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.08.2023.

vii. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.09.2023.

viii. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.10.2023.

ix. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.11.2023.

X. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.12.2023.

xi. Rs. 3,400/- (Rupees Three Thousand Four Hundred Only) payable by 25.01.2024.

d) In the event the First Party paying the above settled amount, the Second Party shall issue "No-dues Certificate" to the First Party within 10 days on receipt of the above said settled amount against the Case ID No. RW301215CB147.

e) Accordingly, it is agreed between the parties that the Second Party will not press for any criminal liability against the First Party on receipt of the above said settled amount and shall have No-objection if the Conviction, sentence and the penalty as per the aforesaid judgment dated 18.08.2022 and order dated 24.08.2022 passed by the Court of Learned Shri M. P. Singh, ASJ, Special Electricity Court, South-West, Dwarka, Delhi, are set aside by the Hon'ble High Court of Delhi. The First Party craves leave of this Hon'ble Court to consider the same in its kind discretion.

f) It is agreed between the parties that subject to realization of the entire settled amount as agreed hereinabove, the parties shall make a joint request before the Hon'ble High Court to pass appropriate orders in the present CRL.A. 646/2022 in view of the present Settlement Agreement."

11. It is submitted by the Appellant that in terms of the settlement, qua the civil liability, Rs.54,000/- has been paid to the Respondent and upon receipt of the amount, the Respondent has issued 'No Dues Certificate' dated 11.03.2024 in favour of the Appellant. Copy of the certificate is handed over in the Court and is taken on record. Learned counsel for the Respondent acknowledges the fact that the parties have amicably settled the matter and



in terms of the Settlement Agreement, agreed amount has been received by the Respondent, against which 'No Dues Certificate' has been issued to the Appellant.

12. Learned counsel for the Appellant places reliance on similar orders passed by Co-ordinate Benches of this Court in ***Suresh Kumar v. BSES Rajdhani Power Ltd. & Anr., 2013 SCC OnLine Del 3066; Hari Prakash & Anr. v. BSES Rajdhani Power Ltd. & Anr., 2014 SCC OnLine Del 1731*** and ***Shamsuddin v. BSES Rajdhani Power Ltd., 2014 SCC OnLine Del 7538***, wherein based on the settlements between the parties, Appeals filed against conviction orders under Section 135 of the Act, 2003 and orders on sentence have been set aside upon compounding of the offence and Appellants were acquitted.

13. Keeping in view all the aforesaid facts and circumstances, and considering the decisions of the Co-ordinate Benches of this Court, as aforementioned, the Appeal is accepted in terms of the settlement arrived at between the parties and the offence under Section 135 of the Act, 2003 stands compounded. Impugned judgment dated 18.08.2022 and order on sentence dated 24.08.2022 are set aside and Appellant is acquitted of the offence charged with.

14. Appeal stands disposed of along with the pending application.

JYOTI SINGH, J

MARCH 14, 2024/pa/du