



2024:DHC:6250



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 12.08.2024

+ CRL.M.C. 6226/2024

MOHAMMAD FAHAD

.....Petitioner

Through: Mr. Shivam Kumar, Mr. Deepanshu Rana, Mr. Deepak Shah, Mr. Pramod Kumar, Mr. Harshit Shishodia, Mr. Vishal Chauhan, Mr. Sandeep Kumar, Mr. Tarannum, Advs. alongwith petitioner in person.

versus

THE STATE GOVT. OF NCT OF DELHI & ANR.Respondents

Through: Ms. Manjeet Arya, APP for the State with SI Nitin Tomar, PS Laxmi Nagar. Mr. Moksh Arora and Mr. Santosh Ramdurg, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N TANOOP KUMAR MENDIRATTA, J (ORAL)CRL.M.A. 23786/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 6226/2024

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioner for quashing of FIR No. 122/2022, under Sections 135/138 of Indian Electricity Act, 2003, registered at PS: Laxmi Nagar and proceedings emanating therefrom.



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2. Issue notice. Learned APP for the State and learned counsel for respondent No. 2 appear on advance notice and accept notice.
3. In brief, as per the case of prosecution, present FIR was registered on 18.01.2022, consequent to a raid carried out by officials of respondent no. 2 on 29.12.2021 wherein petitioner was found to be indulging in direct theft of electricity and connected load was assessed at 1.219 KW for non-domestic purpose.
4. Learned counsel for the petitioners submits that the premises was under construction and a *chowkidar* / security guard had been engaged. The involvement of petitioner in the alleged theft of electricity is denied. Further, the matter is stated to have been amicably settled with respondent No. 2, whereby the dues of Rs.43,650/- have been deposited. Copy of No Dues Certificate dated 30.03.2022 issued by respondent No. 2 is further relied upon by petitioner.
5. Learned counsel for respondent no. 2/BSES Yamuna Power Ltd., on instructions, submits that in view of settlement of civil liability between the parties, respondent No. 2 has no further grievance in this regard and nothing remains to be further adjudicated upon between the parties.
6. Learned APP for the State submits that in view of settlement of civil liability before Lok Adalat, she has no objection in case the FIR in question is quashed.
7. Petitioner in the present case seek to invoke the powers under Section 482 of the Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would



depend upon the facts and circumstances of each case and no generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

8. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant/victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

9. Petitioner is present in person and has been identified by SI Nitin Tomar, PS Laxmi Nagar. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Learned counsel for respondent no. 2 submits that since civil liability already stands settled before Lok Adalat, respondent no. 2 has no objection to the quashing of FIR.

10. Petitioner and respondent No. 2 intend to put quietus to the proceedings arising out of alleged theft of electricity. The civil liability has



already been paid by petitioner in terms of settlement. No past involvement of the petitioner has been brought to the notice of this Court. Reference may also be made to *Anil v. State Govt. of NCT of Delhi* 2023 SCC OnLine Del 5605 and *Ali Emam Khan v. State & Anr.* in W.P. (CRL) 1108/2016 passed by Coordinate Bench of this Court, wherein the proceedings under Sections 135/138 of Indian Electricity Act, 2003 were quashed on the basis of settlement between the parties.

11. Considering the facts and circumstances, since the matter has been amicably settled with respondent no. 2, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. Consequently, FIR No. 122/2022, under Sections 135/138 of Indian Electricity Act, 2003, registered at PS: Laxmi Nagar and proceedings emanating therefrom stand quashed.

12. In the facts and circumstances, instead of imposing the costs upon the petitioner, he is directed to plant 50 saplings of Neem / Jamun trees, which are upto 03 feet in height in the area of Laxmi Nagar after getting in touch with the competent authority (i.e. Horticulture Department of MCD / DDA/ Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through IO / SHO, PS: Laxmi Nagar. The photographs of planted saplings alongwith report of IO / SHO concerned shall be forwarded to this Court within eight weeks. Further, the upkeep of the saplings / trees shall be undertaken by the authorities concerned. In case of non compliance of directions for planting of trees, the petitioner shall be liable to deposit cost of Rs. 50,000/- with the Delhi State Legal Services Authority.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.



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A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J

AUGUST 12, 2024

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