

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

**PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR**

CRR 4309 of 2022

**Rupchand Sk.
-Vs-
State of West Bengal & Anr.**

For the Petitioner : Mr. Subrata Bhattacharyaa, Adv.
Ms. Shipra Santra, Adv.

For the State : Ms. Sreyashi Biswas, Adv.
Mr. Shashanka Sekhar Saha, Adv.

For W.B.S.E.D.C.L. : Mr. Sujit Sankar Koley, Adv.

Hearing concluded on : 24.01.2025.

Judgment on : 28.03.2025

UDAY KUMAR, J.: –

1. The petitioner has prayed for quashing of Special Case No. 10 of 2021, arising out of Purbasthali Police Station Case No. 14 of 2021 dated 07th January, 2021 under Section 135 (1)(a)(b) of Indian Electricity Act, 2003, (read with Electricity Act Amendment, 2007), pending before Learned Special Judge Indian Electricity Act-cum-Additional District and Sessions Judge, Purba Bardhaman, on the ground that he has been falsely implicated in this case as he was arraigned in charge-sheet, in place of FIR named accused Sahadad Sk.
2. Brief conspectus of the facts involved in this case is that, the Assistant Engineer and Station Manager, Indranil Debnath, along with Nurul Hasan

Mallick, Uttam Kumar and staffs of Purbasthali Customer Care Centre, W.B.S.E.D.C.L., went to the village Haldinowpara, on 07th January, 2021, in connection with routine inspection to detect theft of electricity in the locality. During that course, they find that electricity was consumed by direct hooking from the LTOH lines in the impugned premises. At about 11.45 am, they removed said illegal connection and seized the offending materials in presence of Sahinur Khatun, wife of Sahadad Sk. She stated that her husband was the owner of the premises, but he was not present there, at that time.

3. They detected similar illegal connections in the house of Khairul Sk, Nurmahammad Sk, Jiyarul Khandekar. All such connections were dismantled and seized under proper seizure-list, but none of the local persons agreed to put their signature on the seizure lists.
4. Thereafter, Indranil Debnath, who was legally authorized to bring prosecution against the guilty persons, informed the incident to the Inspector-in-Charge of Purbasthali Police Station by filing his written complaint, jointly against Sahadad Sk, Khairul Sk, Nurmahammad Sk, Jiyarul Khandekar, upon which Purbasthali Police Station Case No. 14 of 2021 dated 07th January, 2021, under Section 135 (1)(a)(b) of Indian Electricity Act, 2003, (read with Electricity Act Amendment, 2007), was started against them, and endorsed it to A.S.I. Chandan Kumar Banerjee for investigation.
5. During investigation I.O. visited the place of occurrence and recorded statement of Hafijul Rahaman, Intaj Sk, Mahammad Sk, Mahidul Haque Sk, Sahinur Khatun under Section 161 of Code of Criminal Procedure, 1973.

After completion of investigation, I.O. submitted charge-sheet under Section 135 (1)(a)(b) of Indian Electricity Act, 2003 on 13.08.2021, against Rupchand Sk. instead of Sahadad Sk, and against other FIR named accused Khairul Sk, Nurmahammad Sk, Jiyarul Khandekar, upon which cognizance of the offence under Section 135 (1)(a)(b) of Indian Electricity Act, 2003 was taken by Learned Special Judge, Burdwan, on 13.09.2021.

6. The petitioner prayed for quashing of entire proceeding initiated against him on the basis of the charge sheet, outcome of the defective investigation.
7. Mr. Subrata Bhattacharyaa, Learned Advocate for the petitioner contended that complainant did not arraign him in this case as he did not get any incriminating material against the petitioner. The prosecution was initiated only against the owner or possessor of the offending premises. Despite the fact that petitioner was neither owner nor possessor of the impugned premises, I.O. falsely implicated him in this case. Therefore, the prosecution initiated against him on the strength of defective charge-sheet, would deserved to be quashed summarily.
8. Ms. Sreyashi Biswas, Learned Advocate for the State contended that petitioner was charge-sheeted accused. He has been charge-sheeted in place of Sahadad Sk, on the basis of the statement of Sahinur Khatun, Hafijul Rahaman, Intaj Sk., Mahammad Sk. and Mahidul Haque. They stated the name of petitioner as actual husband of Sahinur Khatul cum owner of impugned premises, in their statement recorded by I.O. under Section 161 of Code of Criminal Procedure, 1973. The correctness of disputed question of fact could only be decided by Trial Court, on the basis of evidence of the

witnesses. As such, she prayed for dismissal of this application, as is devoid of merit.

- 9.** Mr. Sujit Sankar Koley, Learned Advocate for the W.B.S.E.D.C.L. submitted that raiding team detected theft of electricity in the impugned premises. They disconnected them and started case against the owners of the premises. The petitioner challenged his accusation on the ground that he was not owner of the impugned premises. However, this is a disputed question of facts, which should only be decided on trial.
- 10.** The seminal question is whether charge-sheet filed against a non-FIR accused, would amount to the abuse of process of Court?
- 11.** In pursuant to the statement of Sahinur Khatun, wife of Rupchand Sk, recorded under Section 161 of Code of Criminal Procedure, 1973, that out of fear she stated fictitious name of Sahadad Sk. son of Ukil Sk. as her husband with intention to save her real husband, Rupchand Sk. son of Kasem Sk. despite, no person namely Sahadul Sk. ever resided in the village.
- 12.** Similarly, villagers Hafijul Rahaman, Intaj Sk., Mahammad Sk. and Mahidul Haque had also stated that Rupchand Sk. is the husband of Sahinur Khatun and no person namely Sahadad Sk. is residing in the village.
- 13.** It is true that prosecution against any person could be initiated only on the basis of the information imparted by complainant to the police. Definitely, complainant referred the name of accused in his complaint, what Sahinur Khatun and villagers provided him at that time. Complainant had no occasion to verify the correctness of the information, as provided by the villagers, intentionally to save the petitioner. It could only be verified by I.O. during trial. So did the I.O.

- 14.** In the conspectus of the above facts, it appears that complaint was filed against the Sahadad Sk. under the influence of wrong information furnished to the complainant by the local people. The correct fact was collected by I.O. during investigation, and he filed charge-sheet against the real person i.e., petitioner Rupchand Sk. along with other accused persons after rectification of the facts.
- 15.** In any event, filing of a charge-sheet against a non-FIR person, without a valid reason or sufficient evidence, would amount to the abuse of process of Court, if no accusation has been disclosed from the complaint. Mere allegations without supporting documents or material would amount to a bare disputed question of fact, which should be decided only by the Trial Court. It is settled position of law that quashing of a complaint or FIR should be made only in exceptional circumstances and on a rare occasion.
- 16.** Needless to say, that power of quashing of any proceeding should be exercised cautiously and scarcely, only to give effect to any order under the Code of Criminal Procedure, 1973 or to prevent abuse of process of any Court or otherwise to secure the ends of justice.
- 17.** As such, I do not find any merit in this application.
- 18.** Accordingly, instant criminal revisional application being C.R.R. 4309 of 2022 is dismissed.
- 19.** There is no order as to the cost.
- 20.** Case diary, if any, be returned forthwith.
- 21.** Interim order/orders, if any, stands vacated.
- 22.** All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

23. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)