2025:PHHC:075903

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2397-2024
DECIDED ON: 16.05.2025

BHOOP SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Ritu Pathak, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

SANDEEP MOUDGIL, J

1. The instant criminal revision petition has been preferred by Bhoop Singh-petitioner against the impugned order dated 05.09.2024 passed by learned Additional Sessions Judge, Palwal, whereby, the application seeking his discharge under Section 239 read with 245 Cr.P.C. in FIR No. 11801, dated 10.11.2017, under Sections 135, 151 and 138 of Electricity Act, registered at Police Station I&P Faridabad, has been dismissed.

2. It has been contended by learned counsel for the petitioner that the petitioner was a bona fide tenant of the premises owned by Sharvan Kumar Mangla, having taken possession on 15.07.2011 and paid rent and electricity charges as per the bills issued by DHBVNL Palwal. The electricity connection was installed in the name of the owner, who was the registered consumer since 2004, and the petitioner had no knowledge or control over the sanctioned load or technical aspects of the connection. The petitioner was not informed of any overload or irregularity, nor was

any notice issued to him regarding assessment of theft under Section 135 read with 152 of the Electricity Act, 2003. The notice was issued only to the owner, Sharvan Kumar Mangla.

3. It has been further contended that at the time of the electricity department's inspection on 15.07.2011, the meter was sealed in an iron box, regularly checked by the meter reader, and no tampering was reported. The meter was subsequently removed and sealed without any valid reason, allegedly in collusion between the owner and officials, as the owner was pressuring the petitioner to vacate the premises. The petitioner continued to pay electricity bills, including average bills issued after the meter was removed, through cheques, demonstrating bona fide conduct and absence of any intent to commit theft.

4. Counsel submits that the petitioner had a civil dispute with the owner, which resulted in a decree in his favour in a suit for permanent injunction by the learned Civil Judge (Jr. Divn.), Palwal. The FIR No. 1180 of 2017 under Sections 135, 138, and 151 of the Electricity Act was registered at the instance of DHBVNL Palwal and the owner, allegedly as a result of conspiracy and to harass the petitioner after he refused to vacate the premises. The criminal complaint was also sent against the owner, and there is no material to show any active role or connivance of the petitioner in the alleged offence. It is argued that the FIR was registered after a lapse of more than six months from the date of the alleged incident, with no explanation for the delay, which casts doubt on the bona fides of the prosecution. No opportunity of hearing or notice was given to the petitioner before initiating criminal proceedings, violating principles of natural justice. The petitioner was granted anticipatory bail by the Sessions Court, Palwal, and has complied with the conditions imposed, including deposit of 25% of the legal liability. The petitioner vacated the premises on 31.01.2020 in compliance with the directions issued by this

Court. The petitioner has filed a petition for quashing the FIR, in which notice has already been issued to the respondent, and there is no likelihood of tampering with evidence or influencing witnesses.

5. On the other hand, learned State counsel has opposed the present petition, arguing that the presence of the petitioner on the premises during the electricity department's inspection and his admission of being the actual user and bill payer establish a *prima facie* case against him. She has contended that the petitioner, as the actual beneficiary of any alleged tampering with the electricity meter, cannot seek discharge. The actual owner would not have benefited from tampering, as the premises were in the possession of the petitioner, and he was responsible for paying the electricity bills. Therefore, learned State counsel has asserted that there is sufficient evidence to proceed with the case against the petitioner.

6. Heard learned counsel for the parties and perused the record.

7. It is not in dispute that the petitioner was a bona fide tenant in possession of the premises in question since 15.07.2011 and had been regularly paying rent and electricity charges in accordance with the bills issued by DHBVNL, Palwal. The electricity connection was in the name of the owner, who had been the registered consumer since 2004. The petitioner had no control over the sanctioned load or technical specifications of the electricity meter and was never served with any notice regarding any alleged theft or irregularity prior to the registration of the FIR. The petitioner continued to pay electricity bills, even on the basis of average consumption after the removal of the meter, which prima facie indicates bona fide conduct.

8. It is observed that a civil dispute existed between the petitioner and the owner of the premises, which resulted in a decree in favour of the petitioner in a suit

for permanent injunction passed by the Civil Judge (Junior Division), Palwal. The FIR was registered after an unexplained delay of more than six months from the date of the alleged incident. This delay, coupled with the absence of any material evidence implicating the petitioner in tampering or misuse of electricity, casts serious doubt on the bona fides of the complaint. The petitioner was neither served any notice under the provisions of the Electricity Act nor afforded an opportunity of hearing prior to the initiation of criminal proceedings, thereby violating the principles of natural justice.

9. Under Section 135 of the Electricity Act, 2003, the existence of dishonest intention (*mens rea*) is a necessary element to establish liability. Mere tenancy or payment of electricity bills, by itself, does not constitute proof of theft or tampering unless supported by clear and convincing evidence showing the person's involvement or knowledge of such acts. While Section 135 allows for a rebuttable presumption in cases involving unauthorized methods of procuring electricity, no such circumstances exist in the present case. There is no evidence to suggest that the petitioner engaged in or was found in possession of any tampered device or unauthorized connection. Courts have consistently held that liability under Section 135 is person-specific and the actual user or occupant involved in theft must be prosecuted but in the absence of any connection in the accused's name or proof of tampering, liability cannot be fastened. The liability arises only where there is clear evidence of abetment or direct involvement. Mere occupation of premises or tenancy, without more, does not attract criminal liability under Section 135.

10. It is also noted that the petitioner has complied with all court directions, vacated the premises as ordered, and paid the electricity dues as per the bills raised. The petitioner is also suffering from multiple medical conditions, and continued prosecution would cause undue hardship and prejudice. Given the

absence of any evidence indicating tampering, theft, or dishonest intent, the petitioner cannot be held liable under Section 135 of the Electricity Act, 2003. The present prosecution appears to be motivated by malafide intentions on the part of the owner and amounts to an abuse of the legal process.

11. The Hon'ble Supreme Court in "***State of Haryana and Others v. Bhajan Lal and Others*", 1992 Supp (1) SCC 335**, laid down illustrative categories where criminal proceedings may be quashed to prevent abuse of process of law, including where the allegations do not disclose a cognizable offence or are manifestly attended by mala fide motives. The facts of the present case squarely fall within those categories.

12. In view of the foregoing, this Court is of the considered opinion that allowing the criminal proceedings to continue would constitute an abuse of the process of law and result in unnecessary harassment to the petitioner.

13. Accordingly, the present petition is allowed, and the impugned order dated 05.09.2024 is hereby quashed.

(SANDEEP MOUDGIL)
JUDGE

16.05.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No