

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.276 OF 2025

Dattatraya Digambar Biradar,
Age : 28 years, Occu. : Pharmacist,
R/o. Malewadi, Tq. Udgir,
Dist. Latur

... Applicant/Revision
Petitioner (Accused)

Versus

1. The State of Maharashtra,
Through Officer In Charge,
Police Station Udgir (City),
Dist. Latur.
2. Tukaram Goroba Wadwale,
Age : 51 years, Occu. : Service,
Additional Executive Engineer,
Flying Squad, M.S.E.D.C.L., Latur,
R/o. Sale Galli, Old Power House, Latur,
Tq & Dist. Latur.

... Respondents
(Resp. No.2 is informant)

.....
Mr. Sudarshan J. Salunke, Advocate for Applicant.
Mr. S. M. Ganachari, APP for Respondent No.1- State.
Mr. Anil S. Bajaj, Advocate for Respondent No.2.

.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 13 JANUARY 2026
PRONOUNCED ON : 14 JANUARY 2026

ORDER :

1. Present revision, arising out of impugned order dated 11.07.2025 passed by learned Additional Sessions Judge, Udgir, Dist. Latur on application below Exh.14 in Special Case No. 45 of 2024, pressed into service by present revision petitioner seeking discharge under section 227 of the Code of Criminal Procedure.

2. In nutshell, the Assistant Executive Engineer, who is the informant herein, was the party to the flying squad of MSEDCL for inspecting theft of electricity. During the visit to the premises of M/s Yeshwant Dal Mill, it was detected that there was tampering with the meter for committing theft of electricity and therefore Dattatraya Digambar Biradar i.e. present revision petitioner, who was present at the premises, was booked for an offence punishable under section 135 of the Electricity Act.

After investigation, revision petitioner was charge-sheeted before the Special Court and was to be tried in Special Case No. 45 of 2024; however, before framing of the charge, an application at Exh.14 was pressed into service seeking discharge on the ground that there is false implication and there is no material to proceed against the revision petitioner. Such application was contested by informant, i.e. present respondent no.2 herein, and after appreciating the submissions advanced by each of the side, the application at Exh.14 came to be rejected by impugned order dated 11.07.2025. The said order is under challenge in the present revision.

3. Learned counsel Mr. Salunke for revision petitioner would submit that, there is false implication. According to him, there was nothing to demonstrate that revision petitioner had committed

the alleged offence. According to him, merely being present at the premises, action has been taken and he has been implicated. It is further submitted that, there is ample evidence to show that Yeshwant Dal Mill was run by father of revision petitioner and those documents are placed on record along with affidavit. According to learned counsel, there is no strong prima facie case to make out him face trial, and therefore, it is his submission that, learned trial court ought to have discharged the accused. In support of above contention, he sought reliance on the judgment of this court in the case of *Govind Sakharam Ubhe v. State of Maharashtra*, AIR Online 2009 Bom, (Criminal Appeal No.18 of 2009), and more particularly relied on paragraph no.25 of the said judgment and ultimately urges to allow the revision.

4. Learned counsel Mr. Bajaj for respondent no.2 informant strongly opposed the above application on the ground that the revision petitioner was present at the premises, of which there is no dispute. Learned counsel took this court through the provisions of section 135 of the Electricity Act and submitted that, the very provision explicitly shows that, whoever is present is liable for action. Thus, according to him, present revision petitioner being present during the inspection and theft of electricity was detected, therefore he was rightly named. Lastly, he supports the impugned order of trial court rejecting the application at Exh.14.

5. Before advertng to merits of the case, it would be just and proper to spell out settled legal position while considering discharge application under Sections 227 and 228 of the Cr.P.C. It is fairly settled position that, at such stage, Court dealing with such application is merely expected to determine existence of *prima facie* material for proceeding to frame charge and make accused persons face trial. Material gathered during investigation is expected to be sifted with limited purpose to find out whether there are sufficient grounds to proceed against accused. Neither in-depth analysis nor meticulous analysis of evidence is expected at such stage. Thus, the only duty of Court is to ascertain whether there is *prima facie* material suggesting existence of essential ingredients for the offences, which are alleged to be committed.

Above position has been time and again reiterated since the cases of *State of Bihar v. Ramesh Singh* (1977) 4 SCC 39; *Union of India v. Prafulla Kumar Samal and Another* (1979) 3 SCC 4, and a decade back in the cases of *Sajjan Kumar v. Central Bureau of Investigation* (2010) 9 SCC 368; *Amit Kapoor v. Ramesh Chander and another* (2012) 9 SCC 460; *State of Tamil Nadu (By Inspector of Police Vigilance and Anti-Corruption) v. N.Suresh Rajan and Others*. (2014) 11 SCC 709; *Asim Shariff v. National Investigation Agency*

(2019) 7 SCC 148; and Ram Prakash Chadha v. State of Uttar Pradesh (2024) 10 SCC 651.

6. After considering the papers, it appears that, on 12.06.2024, informant Tukaram Wadwale, an Additional Executive Engineer of MSEDCL company along with his squad paid visit to M/s Yeshwant Dal Mill situated at Malewadi Road, Udgir for inspecting the electric meter. In the complaint revision petitioner is named to be present there. It is reported that, during inspection, it was revealed that, there was tampering with the meter and as such, committed theft of electricity of Rs.5,70,061/-. In the complaint itself, it is stated that, action is initiated against the user Dattatraya Digambar Biradar. After investigation, revision petitioner seems to be charge-sheeted.

7. Now, discharge is sought by invoking section 227 of Cr.P.C., primarily on the ground that the father of revision petitioner runs the said mill, and the electricity connection and related papers are in the name of his father and applicant has no concerned, therefore, it would be futile to make him face trial. It is also his submission that there is no prima facie strong evidence in the charge-sheet to make him face trial.

8. After considering the submissions advanced by both sides, it is emerging that, action is sought to be taken against present revision petitioner for the commission of offence under section 135 of Electricity Act. The section 135 of Electricity Act, reads as under :-”

Section 135. Theft of Electricity. - [(1) Whoever, dishonestly, -

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity, or

(d) uses electricity through a tampered meter; or

(e) uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.”

It is explicit from the above provision that, as pointed out, whoever is present during the inspection is liable for action.

9. Therefore, when the name of present revision petitioner is reflected in the report for being present at the time of visit and inspection, he is duly named. Subsequently, investigation is carried out and charge-sheet is filed.

10. In the light of above, report and statements recorded by Investigating Officer, it cannot be said that there is no prima facie case. In fact, it is otherwise, as the applicant is specifically named and he is shown to be present at the premises where the theft of electricity was said to be committed, there is no perversity in the order of learned trial court in rejecting the application (Exh.14) under 227 of Cr.P.C. so as to intervene in the revision. Hence, the following order is passed :-

ORDER

The Criminal Revision Application is dismissed.

(ABHAY S. WAGHWASE, J.)