
(2005) 02 RAJ CK 0001

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 168 of 2005

Jaipur Vidyut Vitran Nigam Limited

APPELLANT

Vs

Rajendra Singh and Party

RESPONDENT

Date of Decision : 11-02-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 193
Electricity Act, 2003 — Section 135, 136, 137, 138, 139

Citation : (2005) 1 RLW 446 : (2005) WLC 205

Hon'ble Judges : Khem Chand Sharma, J

Bench : Single Bench

Advocate : R.K. Agrawal, for the Appellant; Arun Sharma, for the Respondent

Final Decision : Dismissed

Judgement

K.C. Sharma, J.—Heard Counsel for the parties.

The petitioner, Jaipur Vidyut Vitran Nigam, through its Assistant Engineer (O&M), Gangapur City has filed this petition u/s 482 Cr.P.C., challenging the order dated 6.10.2004 passed by the Special Judge (Electricity Offence), Sawaimadhopur, by which the learned Special Judge has returned the complaint filed u/s 135 of the Electricity Act, 2003 (for short "the Act" to the petitioner for presentation before the competent court, inasmuch as, having gone through the complaint the learned Special Judge was of the view that the court subordinate to it should have committed the case to this court,

2. The Special Court .was constituted for the purposes of providing speedy trial of offences referred to in Sections 135 to 139. Section 154 of the Act provides the procedure and power of the Special Court. Sub section (1) of Section 154 provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under Sections 135 to 139 shall be triable only by the Special Court within whose jurisdiction such offence has been committed. Section 155 of the Act provides that the special

court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

3. It is clear that as per Section 153 of the Act, the special court constituted for the purposes of speedy trial of the offences referred to in Sections 135 to 139 of the Act exercises the powers of a Court of Session. Section 193 Cr.P.C. does not empower the court of Session to take cognizance of any offence as a court of original jurisdiction unless the case is committed to it by a Magistrate under this code.

4. Similar matter came up for consideration before the Apex Court in *Moly and Anr. v. State of Kerala (I)*, wherein the Special Court exercising powers of the Court of Session straightway took cognizance of the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 without the case being committed to it by the Magistrate. Their Lordships considering the provisions of Section 193 Cr.P.C. and the provisions of the Act of 1989, concluded as hereunder:

"Neither in the Code nor in the Act is there any provision whatsoever, not even by implication, (hat the specified Court of Session (Special Court) can take cognizance of the offence under the Act as a court of original jurisdiction without the case being committed to it by a Magistrate. If that be so, there is no reason to think that the charge- sheet or a complaint can straight away be filed before such special Court for offences under the Act. It can be discerned from the hierarchical settings of criminal courts that the court of Session is given a superior and special status. Hence we think that the legislature would have thoughtfully relieved the Court of Sessions from the work of performing all the preliminary formalities which Magistrates have to do until the case is committed to the court of Session".

5. In the case at hand, there is no provision whatsoever, under the Act of 2003 thereby empowering; the specified Court of Session (Special Court) to take cognizance of the offences referred to in Sections 135 to 139 of the Act, as a court of original jurisdiction unless the case is bring committed to it by a Magistrate. In this view of the matter, I am of the considered opinion that the Special Court has rightly returned the complaint to the complainant for being presented to the concerned Magistrate and hence the impugned order calls for no interference.

6. Consequently, this misc. petition is dismissed as it being devoid of merit.