

(2019) 04 UK CK 0084

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application (C482 No. 1350 Of 2013)

Mujammil

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 12-04-2019

Acts Referred:

Electricity Act, 2003 — Section 135, 152

Citation : (2019) 04 UK CK 0084

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : Digvijay Singh Bisht, Anjali Noliyal, Saurabh Pande

Final Decision : Dismissed

Judgement

Sharad Kumar Sharma, J

1. The sole applicant in the present C-482 Application has been chargesheeted for the commission of an offence under Section 135 of the Electricity Act, 2003, which was registered as Case Crime No. 364 of 2012 at Police Station Gangnagar, Roorkee, District Haridwar.

2. After lodging of the said FIR, an investigation was conducted and on culmination of the investigation with regard to the set of allegations levelled against the present applicant, he had been chargesheeted on 22.12.2012 being Chargesheet No. 216 of 2012, wherein, prima facie, the Investigating Officer has recorded that considering the evidence and recording the statement of the witnesses and after holding spot inspection and recovery of the material/articles for tapping electricity illegally, it was found by the Investigating Officer in his report that the applicant was indulged in the activities, which was barred by the provisions contained under Section 135 of the Electricity Act, 2003.

3. In pursuance of the submission of the chargesheet, the petitioner had been summoned by the Court of District and Sessions Judge, Haridwar vide its order dated 18.07.2013. Its against the summoning order, as well as against the

proceedings which has been drawn against him for the offence under Section 135 of the Electricity Act, 2003, that the applicant has preferred the present C-482 application praying for quashing the summoning order dated 18.07.2013 and also the entire proceedings registered as Special Sessions Trial No. 43 of 2013, State v. Mujammil under Section 135 of the Electricity Act.

4. The coordinate bench of this Court had initially granted an interim order dated 31.12.2012 in favour of the petitioner (applicant herein) in Writ Petition (Criminal) No. 1235 of 2012, wherein the petitioner had prayed for quashing of the FIR registered against him, as well as against the imposition of the charges to the tune of Rs. 5,27,945.40/-. By the said interim order dated 31.12.2012, the petitioner was directed to deposit 60% of the loss suffered by the department due to the pilferage amount and consequently it was directed that no adverse or coercive action will be taken against the applicant thereafter the deposit so directed by the Electricity Department.

5. The contention of the present applicant is that in compliance of the order dated 31.12.2012, he has already deposited 60% of the said pilferage amount as directed by the coordinate Bench of this Court by the interim order dated 31.12.2012. Though, apparently, after passing of an interim order with a direction to deposit 60% of the pilferage amount though would seem to be an interim order in favour of the petitioner; but, tacitly the act of deposit made by the applicant means to be an admission of commission of an offence under Section 135 of the Electricity Act, which, though under the Act itself is compoundable under Section 152 of the Electricity Act.

6. Considering the allegations as levelled against the petitioner in the FIR, as well as in the findings of chargesheet, this Court is not inclined to interfere at this stage, however, it will be open for the petitioner to move an appropriate bail application before the Sessions Court where the Special Sessions Trial is pending consideration and seek his bail. However, while considering the bail application, the learned Sessions Court will take into consideration the impact of the interim order dated 31.12.2012 as passed by the coordinate Bench of this Court on 31.12.2012 and the consequential deposit.

7. In case, if the present applicant moves a bail application before the Court concerned within a period of two weeks from today, the same would be considered by the Sessions Court within a period of one week thereafter.

8. Subject to the above observation, this C-482 Application lacks merits hence the same stands dismissed.