
(2001) 03 DEL CK 0170
In the Delhi High Court
Case No : Criminal W. No. 206 of 2001

Neelam Jolly

APPELLANT

Vs

State (NCT of Delhi) and Another

RESPONDENT

Date of Decision : 19-03-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Electricity Act, 1910 — Section 39, 44
Penal Code, 1860 (IPC) — Section 379

Citation : (2001) 4 AD 998 : (2001) 91 DLT 391

Hon'ble Judges : Usha Mehra, J; Mahmood Ali Khan, J

Bench : Division Bench

Advocate : Ruchira V. Arora and Naveen Thakur, for the Appellant; Mukta Gupta and B.C. Pandey, for the Respondent

Judgement

Rule D.B.

1. This is a petition for quashing of FIR No. 327/96 registered at P.S. Hauz Khas for offences u/s 39/44 of the Indian Electricity Act read with 379, IPC.

2. We have heard learned Counsel for the parties and perused the record. An FIR was registered on 3rd May, 1996 alleging that a joint team of officials from Enforcement, Theft Control and Zonal Staff of Delhi Vidyut Board conducted surprise raid in the area of Hauz Khas Village, New Delhi where the petitioner was found indulging in direct theft of energy through SV mains without installation of meter. Necessary photographs were taken in the presence of police and PVC wire used for stealing electricity was also recovered. Accordingly demand was raised against the petitioner on the basis of theft committed by her. At the same time criminal case was also registered against the petitioner vide FIR No. 327/96. The petitioner has paid the amount of the bill as raised by the respondent/DVB after the theft was detected by the respondent/DVB. It is only after making the payment that the petitioner has come forward for the quashing of the FIR No. 327/96.

3. Mr. N.S. Dalal appearing for Delhi Vidyut Board states that full amount of the bill has been paid by the petitioner.

4. The petitioner has made reference to Office Order dated 16th May, 1996 issued by Delhi Electric Supply Undertaking (as it then was) which reads as under:

"The Special Officer, exercising the powers of DESU/MCD, vide decision No. 5284/GW/Corp. dated 1st May, 1996 have accorded approval for amendment in the existing tariff so as to limit the period of assessment to four months as against six months in cases of tampering of seals and metering equipment etc., for pilferage of energy and/or direct theft in cases where FIR has not been lodged (for whatever reasons) and the consumer is willing to pay the assessment bill at the rate and manner provided in the tariff.

However, in case the consumer does not come forward and is also not willing to pay the assessed bill immediately, FIR will be lodged besides other actions, including filing of recovery suit of assessment bill for a period of six months as per existing provisions of the tariff.

This issued with the approval of General Manager."

5. Perusal of the aforesaid office order suggest that in case consumer who is found to have tampered with the seals of the meter or involved in direct theft of electricity, besides other would be liable for criminal action. It is subject to one exception that in case the consumer is willing to pay the assessed bill at the rate and in the manner provided in the tariff and would come forward immediately for being assessed, no FIR will be lodged besides other actions.

6. Counsel for Delhi Vidyut Board contended that petitioner cannot take advantage of this order because she paid the amount of the bill as assessed by Delhi Vidyut Board after the expiry of the period. It is only after the FIR was lodged that petitioner has made the payment.

7. In this case admittedly petitioner has not challenged the raid of the premises by the official of DVB nor raising of the bill on account of direct theft committed by him. He has in fact paid the amount of the bill raised by the respondent/DVB though not immediately. Since the payment has been made by the petitioner, Therefore, as an exceptional circumstance, we deem it fit to quash the FIRs by taking lenient view. Therefore, keeping in view the policy of the Delhi Vidyut Board and the fact that petitioner has already made the payment, we order for the quashing of FIR No. 327/96 u/s 39/44 of Indian Electricity Act read with Section 379, IPC registered at P.S. Hauz Khas and order for the dropping of any proceedings emanating there from.

With these observations, the petition stands disposed.

8. Petition disposed of.