
(2016) 06 AHC CK 0056

In the Allahabad High Court

Case No : Criminal Misc. Application U/S 482 No. 18835 of 2016

Pintoo Singh @ Prashant Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 20-06-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 300, 482
Electricity Act, 2003 — Section 152

Citation : (2016) 96 ACrC 383 : (2017) 1 ADJ 5 : (2016) 118 ALR 776

Hon'ble Judges : Surya Prakash Kesarwani, J.

Bench : Single Bench

Advocate : Jeevan Prakash Sharma, Advocate, for the Applicant; G.A, for the Opposite Party

Final Decision : Disposed Off

Judgement

Surya Prakash Kesarwani, J.—; Heard Sri J.P. Sharma, learned counsel for the applicant and Sri Nitin Srivastava, learned A.G.A. for the State respondents.

This application under Section 482 Cr.P.C. has been filed praying to quash the charge sheet no.85/2013 dated 24.4.2013 (State v. Pintoo and another) in Case No.114/2013 arising out of Case Crime No.165/2013 under Section 135 Electricity Act, P.S. Lanka District Varanasi which is said to be pending in the Court of Special Judge E.C. Act, Varanasi and the Court has taken cognizance on 1.7.2013.

2. Learned counsel for the applicant submits that as per provisions of Section 152 of the Electricity Act, 2003, the applicant, pursuant to the bill/notice issued by the Executive Engineer, U.P. Power Corporation Ltd., Varanasi dated 25.4.2013 for a sum of Rs.60,000/- towards compounding charges under Section 152(1) of the Act; has deposited the compounding charges vide receipt No.308989/30 dated 25.4.2013 and as such in view of the provisions of Section 152(2) of the Act the criminal proceedings instituted against the applicant can not be continued.

3. Learned A.G.A. submits that this application may be disposed of granting liberty to the applicant to move an application before the Court concerned where aforesaid criminal case is pending, bringing to its notice the deposit of compounding charges and the provisions of Section 152 of the Act and the said court may take appropriate decision in accordance with law within a time bound period.

4. I have carefully considered submissions of the learned counsel for the parties. It is undisputed that a case of Electricity theft was registered against the applicant as mentioned above. It appears that subsequently charge sheet No.85/2013 dated 24.4.2013 was submitted.

5. It is the case of the applicant that Executive Engineer U.P. Power Corporation Ltd. Varanasi itself has issued a notice dated 25.4.2013 for depositing the compounding charges of Rs. 60,000/- and the compounding charges were deposited by the applicant vide receipt No. 308989/30 dated 25.4.2013.

6. Section 152 of the Act is reproduced below:

152. Compounding of offences: - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,(2 of 1974 the Appropriate Government or any officer authorised by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity under this Act, a sum of money by way of compounding of the offence as specified in the Table below:

Nature of Service

Rate at which sum of money for Compounding to be collected per Kilowatt(KW)/ Horse Power(HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere(KVA) of contracted demand for High Tension (HT)

1

2

1. Industrial Service

twenty thousand rupees;

2. Commercial Service

ten thousand rupees;

3. Agricultural Service

two thousand rupees;

4. Other Services

four thousand rupees:

Provided that the Appropriate Government may, by notification in the Official

Gazette, amend the rates specified in the Table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any Criminal Court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

7. Perusal of the provisions of Section 152(2) clearly indicates that on payment of the sum of money in accordance with sub-Section (1) any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court. The provisions of Section 152(1) starts with a non-obstante clause which has overriding effect over the provisions of Cr.P.C. The acceptance of the compounding charges for offence in accordance with sub Section (1) by the appropriate authority empowered in this behalf shall be deemed to amount to an acquittal within the meaning of Section 300 of the Code of Criminal Procedure, 1973. Sub Section 4 of Section 152 further provides that compounding of an offence under subsection (1) shall be allowed only once for any person or consumer.

8. In view of the provisions of Section 152 of the Act and the facts pleaded by the applicant that pursuant to the notice dated 25.4.2013 issued by the Executive Engineer U.P. Power, Corporation Ltd., Varanasi the compounding charges of Rs. 60,000/- has been deposited, it appears appropriate to dispose of this application granting liberty to the applicant to move an appropriate application before the Court below along with proof of deposit of compounding charges within two weeks from today and on presentation of such application the Court below, after due verification; shall pass appropriate order in the light of the provisions of Section 152 of the Act, within a further period of 6 weeks.

9. For a period of eight weeks further proceedings in the afore noted case No.114 of 2013 shall be kept in abeyance against the applicant.

10. With the aforesaid direction this application is disposed of.