

(2019) 12 JH CK 0242

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petitions No. 1412 Of 2016

Ram Chandra Rungta And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 17-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 379

Electricity Act, 2003 — Section 135, 138, 140, 150, 153, 154

Citation : (2019) 12 JH CK 0242

Hon'ble Judges : Anant Bijay Singh, J

Bench : Single Bench

Advocate : N.K.Pasari, Prashant Kumar Singh

Final Decision : Disposed Of

Judgement

1. Cr. M.P.No.1412 of 2016 filed by Ram Chandra Rungta invoking its jurisdiction Under section 482 of the Cr.P.C for quashing the entire Criminal

Proceeding initiated against the petitioner in connection with Ramgarh P.S.case no.01/2008 dated 01.01.2008 under section 379 IPC and section 135

& 138 of the Electricity Act, 2003 as also the order taking cognizance dated 14.02.2012 whereby and whereunder cognizance of offence has been

taken under section 135 and 138 of the Electricity Act 2003.

2. The prosecution story, in short, is that the Assistant Electrical Engineer, Damodar Valley Corporation lodged an FIR alleging therein that the

electrical supply of the petitioner's Company, namely, Jharkhand Ispat Private Limited Ramgarh was disconnected, the information of which was duly

brought to the knowledge of the Management by the production Manager of the Industrial Unit. On 01.01.2008, it was informed to the Company that

due to theft of power, the 33 KV power supply from DVC was disconnected on 01.01.2008. Further the Company came to know from the newspaper

report on 02.01.2008 that an FIR had been lodged by the Assistant Electrical Engineer, DVC Sub-station, Nai Sarai, Ramgarh alleging theft of

electricity by the Management of the Company at its industrial unit.

against the petitioner.

3. The present case was filed on 27.06.2016 and was taken up on 02.08.2016 and Mr. Pasari undertook that he will serve two copies of the

application to Mr. Prashant Kumar Singh, learned counsel appearing for the D.V.C.

4. Further, on 26.06.2018, the matter was directed to be listed alongwith Cr.M.P.No.221 of 2008 on 20.07.2018.

5. This case was adjourned from time to time. On 09.12.2019 this case was heard alongwith Cr. M.P.No. 221 of 2008.

6. From perusal of the record, it transpires that on 14.02.2012 the learned Chief Judicial Magistrate has passed the order that final form no. 360/2011

dated 31.10.2011 has been submitted under sections 379 I.P.C and section 135 and 138 of the Electricity Act 2003 and the C.J.M took cognizance of

the offences under sections 135 and 138 of the Electricity Act 2003, but the court has no power to take cognizance of the offences falling under

Electricity Act.

7. Section 153 of the Electricity Act reads as under:

153. Constitution of Special Courts (1) The State Government may, for the purposes of providing speedy trial of offences referred

to in, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas, as may be

specified in the notification.

(2) A Special Court shall consist of a single Judge who shall be appointed by the State Government with the concurrence of the High Court.

(3) A person shall not be qualified for appointment as a Judge of a Special Court unless he was, immediately before such appointment, an

Additional District and Sessions Judge.

(4) Where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special

Court, or he is incapacitated by illness or otherwise for the performance of his

duties, any urgent business in the Special Court shall be disposed of.

(a) by a Judge, if any, exercising jurisdiction in the Special Court.

(b) where there is such other Judge available, in accordance with the direction of District and Sessions Judge having jurisdiction over the

ordinary place of sitting of Special Courts, as notified under sub-section (1).

8. Section 154 of the Electricity Act provides procedure and power of Special Court for every offence punishable under sections 135 to 140 and

section 150 of the Electricity Act, which shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

9. Again the case was heard on 03.07.2019 and the order was reserved and on 15.07.2019 the order was pronounced and the case was directed to be listed on 07.08.2019.

10. Again on 08.11.2019 the matter was heard and on 20.11.2019 a detailed order was passed and report was called for from the Principal District

Judge, Ramgarh in terms of letter issued by Registrar General as to whether any court has been created or any court has been vested the power to try

the offence under Indian Electricity Act.

11. Further, the matter was listed on 04.12.2019 and the report dated 2.12.2019 submitted by Principal District & Sessions Judge, Ramgarh has been

received, which reveals that two courts namely, Sri Sanjay Pratap, District & Addl Sessions Judge-I, Ramgarh and Sri Om Prakash, District & Addl

Sessions Judge-II, Ramgarh are working as Special Courts to try the offences under Indian Electricity Act. The matter again posted on 09.12.2019.

12. On 09.12.2019 when the case is called out, learned counsel for the petitioner has informed that the case is pending before Sri Sanjay Pratap,

District & Addl. Sessions Judge-I, Ramgarh.

13. In the instant case, prayer has been made for quashing the entire criminal proceeding initiated against the petitioner including the order taking

cognizance dated 14.02.2012 passed by C.J.M. under the Electricity Act.

14. In the facts and circumstances of the case, petitioner namely, Ram Chandra Rungta is directed to surrender before the Special Court (Sri Sanjay

Pratap, District & Addl. Sessions Judge-I, Ramgarh latest by 09.01.2020 and to pray for regular bail and in the event of his surrender, the Court below

shall enlarge him on bail, on furnishing bail bond of Rs. 30,000/- (Rupees thirty thousand) with two sureties of the like amount each to the satisfaction

of Special Court (Sri Sanjay Pratap, District & Addl. Sessions Judge-I, Ramgarh, in connection with Ramgarh P.S. Case No. 01/2008,

corresponding to G.R. No. 03/2008(T.R. No.305/2012).

15. The petitioner is at liberty to raise all the points at the appropriate stage, which have been raised in this Cr. M.P.

16. With the aforesaid observation and direction, this Cr. M.P. No.1412 of 2016 is disposed of.

Let a copy of this order be communication to the trial court through FAX.