
(2012) 03 UK CK 0104

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application No. 1020 of 2009

Suraj Kumar Saxena

APPELLANT

Vs

State of Uttarakhand and another

RESPONDENT

Date of Decision : 13-03-2012

Acts Referred:

Citation : (2012) 1 NCC 383

Hon'ble Judges : Servesesh Kumar Gupta, J

Bench : Single Bench

Judgement

Hon"ble Servesesh Kumar Gupta, J.—Having heard Learned Counsel for the parties, it transpires that petitioner Suraj Kumar Saxena is resident of Civil Lines, Rudrapur, District Udham Singh Nagar. He had a load of 1 KW domestic electricity supply in his meter No. RDD9468/544457, a copy of meter cealing certificate is annexure no. 3 to the petition. He got his meter upgraded from 1 KW to 3 KW and deposited Rs. 900/-, as up-gradation charges, on 29.06.2009. Eventually, in the residential colony where petitioner's house was located the electricity department raided to detect pilferage of power supply. This team included officials of vigilance department also. In the afternoon of 04.07.2009, the raid was conducted and a number of persons were found indulged in the electricity pilferage so an FIR was lodged against six persons including petitioner Suraj Kumar Saxena. In the house of petitioner, it was found that after having a cut in supply cable before electricity meter, a cable was drawn for electricity theft. After investigation charge sheet was submitted, which is impugned in this petition. It has been argued on behalf of petitioner that besides submission of charge sheet, an assessment to the tune of Rs. 14,998/- has been settled towards electricity revenue payable by petitioner and he has been asked to deposit the same. It has been further mentioned in the said assessment notice that if petitioner has any objection towards this assessment, then he can raise the same to the office of Executive Engineer within fifteen days. Petitioner instead of responding to this notice has come up in this petition.

2. It has been argued that the assessment was exorbitant because the prescribed formula, as envisaged under the Rules and Regulations drafted by Electricity Regulatory Commission to assess the unit is $L \times D \times H \times F$ where "L" stands for "Load", "D" stands for "Days (working)", "H" stands for "Hours of supply of electricity" and "F" stands for "Load Factor". Here, the discretion remains with the ministerial staff, who is designated in the office of Executive Engineer to make this assessment. An employee of that ministerial staff can reduce or enhance either days or hours of supply or load factor or else. So this way impugned assessment of petitioner has been fixed. It can be reduced at the discretion exercised by ministerial staff under the supervision of Engineer concerned. This Court also feels that when the capacity of load of electricity supply was enhanced from 1 KW to 3 KW just on 29.06.2009 and the house was raided just after five days i.e. on 04.07.2009 then assessment of this much amount taking the load factor for the entire year is unjustified. Needless to add that petitioner has produced the copies of electricity bill and receipt of payment upto 31.03.2009 before this Court. The offence is compoundable. So in view of what has been discussed above, the impugned charge sheet against petitioner Suraj Kumar Saxena is hereby quashed subject to the direction that petitioner will attend the office of Executive Engineer, who will hear him personally, taking his submission into serious consideration along with observation of this Court made hereinabove. This Court expects that exorbitant assessment so made against the petitioner would reasonably be reduced. Petitioner will approach the Executive Engineer concerned within one month from today. If petitioner fails to comply with the directions of this Court then this judgment will be deemed to be otiose. With the above observations, the petition as well as stay vacation application no. 1501 of 2011 stands disposed of.