

(1998) 07 P&H CK 0134

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 9306-M of 1998

Tirlok Chand Gupta

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 28-07-1998

Acts Referred:

Citation : (1998) 4 RCR(Criminal) 212

Hon'ble Judges : K.K.Srivastava, J

Advocate : Surinder Lamba, S.K. Garg, Advocates for appearing Parties

Judgement

K.K. Srivastava, J.

1. The petitioner Tirlok Chand Gupta at present residing in Biratnagar, Nepal and a partner of the M/s Gupta Oil Mill, Uklana Road, Narwana, seeks quashing of impugned FIR (copy Annexure P2) lodged under Section 379 IPC and Section 39 of the Electricity Act at P.S. City Narwana being FIR No. 439 dated 13.11.1997.

2. The accused shown in the FIR were Hoshiar Singh, Manager of M/s Gupta Oil Mills, Uklana Road, Narwana and the Parveen Gupta Proprietor of the said Mill. The allegation against the petitioner was under Section 120B IPC. As admittedly, he was not residing at the relevant time in Narwana and was not in fact incharge of the affairs of the said Mill. The learned counsel for the petitioner drew the attention of this Court to the last para of the report dated 13.12.1997 of SHO, PS City Narwana wherein it was specifically noted that no offence under Section 120B IPC was proved in this case. The liability of the petitioner for any dues/damages/penalty imposed or could be imposed by the Electricity department for the unauthorised use of the electricity is an entirely different matter. Since the allegations of a criminal conspiracy which was the main ground for implicating the petitioner in this case was not found proved by the investigating agency, the petitioner could not be prima facie held liable for the offences punishable under Section 379 IPC and Section 39 of the Electricity Act simpliciter alongwith the co accused.

3. Having carefully considered the averments of the learned counsel for the petitioner, I find considerable merit in this petition. It will be a futile exercise to permit such an FIR and consequential proceedings qua the petitioner to continue and the same is likely to cause unnecessary harassment to the petitioner and the same may be abuse of the process of the Court. Resultantly, the petition is allowed and the impugned FIR No. 439 dated 13.11.1997, Police Station City Narwana and consequential proceedings flowing therefrom are set aside qua the petitioner only.