

WPCRL No. 1003 of 2010

Hon'ble Tarun Agarwala, J.

Mr. M.K. Goyal, Advocate for the petitioner.

Mr. G.S. Sandhu, G.A. for the State.

It transpires that the petitioner committed theft of electricity by taking a supply line directly from the pole. This offence was detected by Junior Engineer of the Electricity Deptt. who went to the spot and found that electricity was being taken directly from the pole without a meter and, consequently, the Junior Engineer took immediate action dis-connecting the electricity supply and took away the wire etc. and lodged a F.I.R.. The petitioner, being aggrieved by the lodging of the F.I.R., has filed the present writ petition stating that no offence whatsoever is made out from a bare perusal of the F.I.R.

In support of his submission, the learned counsel placed reliance upon Section 151 of the Electricity Act, 2003 read with Section 126 of the said Act and submitted that no F.I.R. can be lodged and only a complaint can be lodged by the Electricity Deptt. and that too after an assessment is made u/S 126 of the Act and if the petitioner fails to pay the amount so assessed.

In my opinion, the submission of the learned counsel for the petitioner is patently erroneous in view of Section 128 read with Section 135, wherein, if a theft is detected, a F.I.R. can be lodged to investigate the matter. This Court finds that prima-facie case of theft is made out and, consequently, the Court is not inclined to interfere in the F.I.R. lodged by the opposite party No.4. The writ petition consequently fails and is dismissed summarily.

In the event, the petitioner surrenders before the court below and applies for bail, the Court below is expected to decide the bail application expeditiously keeping in mind the principles enunciated in the Full Bench decision of Allahabad High Court in the case of **Smt. Amarawati and another Vs. State of U.P., 2005 Cri.L.J. 755.**

(Tarun Agarwala, J.)

Dated 30.11.2010

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