

In the High Court of Punjab and Haryana at Chandigarh

Crl.Misc.M No. 18104 of 2011 (O&M)
Date of decision: 31.10.2012

Rajbir

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Brijender Kaushik, Advocate for the petitioner.
Mr.Satyavir Singh Yadav, Adl.A.G.Haryana
Mr.Sudhir Hooda, Advocate for respondent No.2

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the FIR No.28 dated 13.1.2010 under Section 135 of the Electricity Act, 2003 (for short 'the Act') registered at Police Station Parao, Ambala Cantt (Annexure P1).

Learned counsel for the petitioner has submitted that in terms of the notice dated 3.12.2009 (Annexure P3), the petitioner had deposited the Compounding fee to the tune of ₹40,000/- vide demand draft dated 9.12.2009. In these circumstances, the criminal proceedings against the petitioner were liable to be quashed in terms of Section 152 of the Act.

Learned counsel for respondent, on the other hand, has

opposed the petition but has failed to controvert the payment of compounding fee by the petitioner.

Section 152 of the Act reads as under:-

“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 punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:-

TABLE

Nature of Service	Rate at which the 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”

Thus, in view of the above provision, where a consumer/

any person has paid compounding fee, no criminal proceedings shall continue against the said consumer or person in any criminal Court. The compounding of an offence under sub section (1) shall be allowed only once for such person or consumer. In the present case, there is nothing on record to suggest that the petitioner had earlier been allowed the benefit of compounding of an offence. Even otherwise the petitioner had deposited the compounding fee in terms of the notice issued to him Annexure P3 whereby the petitioner was required to deposit ₹40,000/- towards compounding fee. Since the petitioner has already deposited the compounding fee in question, continuation of criminal proceedings against the petitioner would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. FIR No.28 dated 13.1.2010 under Section 135 of the Act registered at Police Station Parao, Ambala Cantt alongwith all consequential proceedings arising thereto are quashed.

**(SABINA)
JUDGE**

October 31, 2012

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