

***In the High Court of Jharkhand at Ranchi***

***Cr.M.P.No.196 of 2014***

Indrajit Sah @ Indrajit Saha .....Petitioner

V E R S U S

State of Jharkhand .....Opposite Party

CORAM: ***HON'BLE MR. JUSTICE R.R.PRASAD***

For the Petitioner :Mr.Rajesh Kumar

For the State :A.P.P

02/ 31.03.14. This application has been filed for quashing of the order dated 17.2.2012 passed by the Chief Judicial Magistrate, Sahibganj in Sahibganj (Town) P.S. case no.177 of 2011 whereby and whereunder the court took cognizance of the offence punishable under Sections 135 and 138 of the Electricity Act.

Learned counsel appearing for the petitioner submits that a case was registered against the petitioner with respect to an offence under Sections 135 and 138 of the Electricity Act. That case was taken up for investigation. During investigation, the police did not find any culpability on the part of the petitioner and thereby police report was submitted whereby the petitioner was exonerated from accusation. In spite of that the court without assigning any reason took cognizance of the offence as aforesaid against the petitioner by holding that *prima facie* materials are there against the petitioner but no reason has been assigned for coming to conclusion and thereby the court did commit illegality in view of the decision rendered in a case ***of Nupur Talwar vs. Central Bureau of Investigation [(2012) 2 SCC 188]*** and also in view of the decision rendered in a case of ***M/s. GHEL, Employees Stock Option Trust vs. M/s. India Infoline Limited [2013 (2) East.Crl. Cases 326 (SC)]*** whereby the Hon'ble Supreme Court has been pleased to observe that the court, in such situation, requires to pass order by assigning reason but since no reason has

been assigned for holding that *prima facie* materials are there, order impugned is fit to be set aside.

Admittedly, the police when did not find any culpability on the part of the petitioner, submitted police report exonerating the petitioner from accusation. In spite of that, the court took cognizance of the offence against the petitioner without assigning any reason as to on what basis he has come to conclusion that *prima facie* materials are there against the petitioner.

In that event, the impugned order dated 17.2.2012 passed by the Chief Judicial Magistrate, Sahibganj (Town) P.S. case no.177 of 2011 and also the order dated 29.11.2013 passed in Cr. Rev. No.51 of 2012 are hereby set aside and the matter is remanded back to the court concerned for passing a fresh order in accordance with law.

In the result, this application stands disposed of.

**( *R.R.Prasad, J.* )**

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