

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 17900 of 2019

Petitioner :- Mohammad Qamar Quraishi

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Nabi Ullah

Counsel for Respondent :- G.A.,Mahboob Ahmad

Hon'ble Naheed Ara Moonis,J.

Hon'ble Jayant Banerji,J.

Heard the learned counsel for the petitioner, learned counsel appearing on behalf of U.P. Power Corporation and the learned A.G.A. for the State.

We have taken through the allegations contained in the first information report and the material on record.

By means of the present writ petition, the petitioner has invoked extraordinary jurisdiction of this Court with a prayer to quash the FIR dated 29.01.2019 registered as Case Crime No. 0100 of 2019, under Section 135 Indian Electricity Act (Amendment) 2003 IPC, Police Station- Naini, District- Prayagraj.

It is submitted by the learned counsel for the petitioner that the petitioner is maliciously being harassed on the basis of false allegation made in the first information report. The petitioner has never indulged in the theft of the electricity. The petitioner is having valid electricity connection and is regularly paying the electricity bill. However, the petitioner is ready to clear all the electricity dues, if any.

Per contra learned counsel appearing for the power corporation contended that in case the petitioner is ready to clear all the electricity dues he may move an application before the competent authority narrating the entire facts and the competent authority shall decide the same.

Having considered the rival submissions advanced by the learned counsel for the parties and the nature of the allegations, it cannot be said that prima facie no

cognizable offence is made out against the petitioner, hence the prayer for quashing the first information report is refused.

It is provided that the petitioner shall move an application before the Executive Engineer, U.P. Power Corporation, Prayagraj, respondent no. 4 who shall look into the matter and decide the same invoking Section 152 of the Electricity Act, 2003, which contemplates that notwithstanding anything contained under the Code of Criminal Procedure 1973, the appropriate government or any officer authorized by it in this behalf shall accept from any consumer or from any person who commit or who is reasonably suspected of having committed an offence of theft of electricity punishable under the Act, the sum of money by way of compounding of the offence.

It is, therefore, directed that in case the petitioner moves an application before the authority concerned within two week from today for compounding the offence, the authority concerned shall decide the application in accordance with law. The petitioner shall deposit the compounded amount, if any, within three weeks thereafter.

The petitioner shall not be arrested in the aforesaid case for a period of two months from today. In default of moving the application as mentioned above or makes any default in depositing the compounded amount, it shall be open to the Investigating Officer to submit a report under Section 173 (2) Cr.P.C. accordingly.

With the above direction, this petition is finally disposed of.

Order Date :- 28.6.2019/Shahnawaz