

Naresh Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Feb-22-2013

Appellant : Naresh

Respondent : The State of Madhya Pradesh

Advocate for Def. : Shri. P.N.Verma

Advocate for Pet/Ap. : Shri. A.D.Mishra

Judgement :

Cr.R.No.93/2012 22.2.2013 Shri A.D.Mishra, counsel for the applicant.

Shri P.N.Verma, counsel for the respondent.

Heard on admission.

The applicant has challenged the order dated 14.11.2011 passed by the Special Judge (Electricity) Bijawar, District Chhatarpur in Special Case No.48 of 2011 whereby the charges of offence punishable under Section 135 of Electricity Act was framed against the applicant.

The prosecution story in short is that on 1.12.2009 inspection of Panchayat Bhawan, Gram Panchayat, Mandevra, Police Station Bakswaha, District Chhatarpur was done by the officers of the Electricity Board and they found that a water motor was running with the help of direction connection taken from L.T Line

and therefore, a panchanama was prepared and a complaint was filed against the applicant, who was the Sarpanch in that Gram Panchayat at that time.

After considering the submissions made by learned counsel for the parties and looking to the facts and circumstances of the case, it is apparent that prima facie the Sarpanch of the Gram Panchayat is head of the Panchayat and he is responsible to take decisions on administrative side.

He also controls the working of the Panchayat.

It is true that the motor was being run under the scheme of the PHE Department but it does not mean that it could be run without taking a proper connection.

The learned counsel for the applicant has submitted that one operator Ratiram Sahu was working at that time and he was not made a party in the case.

Similarly he has submitted that all the members of the Gram Panchayat were responsible vicariously for that crime.

It is also submitted that the Sarpanch has limited rights and liabilities according to the law relating to the Panchayat.

However, at present it is to be seen as to whether prima facie a case is made out against the applicant or not. If case is made out against other persons then the applicant may apply under Section 319 of Cr.P.C at the relevant time before the trial Court and therefore, cases of Ratiram Sahu and other Panchayat Members cannot be considered at present.

Though he has limited liability or power but no one can use a water motor by stealing electric energy without due consent of the Sarpanch.

The Sarpanch being the controller of the Panchayat it was the responsibility of the Sarpanch to file a FIR, take an appropriate electricity connection as per rules before connecting and starting the submersible pump.

Under such circumstances, offence under Section 135 of the Electricity Act is made out against the applicant.

There is no illegality or perversity visible in the order passed by the learned Special Judge under the Electricity Act.

Consequently, the present revision filed by the applicant has no force.

It cannot be accepted.

It is dismissed at motion stage.

(N.K.Gupta) Judge bina

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