

**Swapnil Yadav @ Sonu Yadav Vs. State and anr**

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**Court :** Delhi

**Decided On :** Aug-26-2014

**Judge :** Sudershan Kumar Misra

**Appellant :** Swapnil Yadav @ Sonu Yadav

**Respondent :** State and anr

**Judgement :**

\$~ \* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 3824/2014 SWAPNIL YADAV @ SONU YADAV ..... Petitioner Through Mr. M.L. Yadav and Mr. Lokesh Chander, Advocates. versus STATE & ANR Through ..... Respondents Mr. Amit Ahlawat, Additional Public Prosecutor. Mr. Deepak Pathak and mr. Neeraj Grover, Advocates for Company. CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA % SUDERSHAN KUMAR MISRA, J.(Oral) CrI.M.A. No.13106/2014 Exemption, a prayed for, is allowed, subject to all just exceptions. This application is disposed off. CrI.M.C. No.3824/2014 & CrI. M.A. No.13105/2014 1. This petition has been moved under Section 482 Cr.P.C. seeking quashing of FIR No.65/2013, registered under Section 135 of the Indian Electricity Act (Amend) 2003 at police station Kapashera, and all proceedings emanating therefrom, on the ground that the bill raised by the electricity company in this regard has been paid in full by the petitioner.

2. Issue notice.

3. Mr. Amit Ahlawat, Additional Public Prosecutor for the State and Mr. Deepak Pathak, Advocate for the second respondent / BSES.

4. Counsel for the second respondent / complainant, affirms the fact that the entire amount of the bill as raised by his client stands paid by the petitioner; and the requisite No Dues Certificate has also been issued to the petitioner on 19.08.2014; and therefore, he has no objection to the quashing of the aforesaid FIR.

5. Counsel for the State submits that the charge sheet has been filed in the matter. He further submits that looking to the circumstances, and specially, since the complainant is no longer interested in pursuing this matter any further; no useful purpose will be served in continuing with these proceedings.

6. Looking to the overall circumstances; and in view of the decision of the Supreme Court in Gian Singh v. State of Punjab, (2012) 10 SCC303 which has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; by observing as under:

58. ....However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

I am of the opinion that the matter deserves to be given a quietus, since the complainant is not interested in supporting the prosecution any further.

7. Consequently, the petition is allowed and FIR No.65/2013, registered under Section 135 of the Indian Electricity Act (Amend) 2003 at police station Kapashera, and all proceedings emanating therefrom, are hereby quashed.

8. On a query, my attention has also been drawn by counsel for the second respondent to Regulation 53 (iv) of the Delhi Electricity Supply Code and performance Standards Regulations, 2007, which empowers the electricity company to prepare a final assessment bill, on two times the rates as per applicable tariff.....

in cases of theft of energy such as the present one. He submits that the bill, that has been raised in this case on 11.12.2012, is on the basis of the aforesaid Regulation, and has been prepared in the format approved by the Delhi Electricity Regulatory Commission (DERC). A perusal of the said bill shows that although the same is titled as, ASSESSMENT BILL FOR THEFT (DIRECT THEFT), there is, however, no reference to the provision, under which, the amount has been calculated and claimed. It is suggested that it would be more appropriate if henceforth, such bills carry a clear indication that they have been prepared in terms of Regulation 53 (iv) read with any other relevant provision that may be extant.

9. A copy of this order be also communicated to the Delhi Electricity Regulatory Commission for its consideration and necessary action.

10. The petition, along with CrI.M.A. No.13105/2014, stands disposed off.

11. 0Dasti to parties. SUDERSHAN KUMAR MISRA Judge AUGUST26 2014 dr

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