

Amar Singh Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Aug-28-2002

Reported in : 2002(5)MPHT338; 2003(3)MPLJ256

Judge : Uma Nath Singh, J.

Acts : [Indian Electricity Act, 1910](#) - Sections 39 and 50; Indian Penal Code (IPC) - Sections 379; Code of Criminal Procedure (CrPC)

Appeal No. : Criminal Revision No. 546/2002

Appellant : Amar Singh

Respondent : State of M.P.

Advocate for Def. : Sanjeev Shukla, Panel Lawyer

Advocate for Pet/Ap. : T.S. Ruprah, Adv.

Judgement :

ORDER

Uma Nath Singh, J.

1. Heard the Counsel for the parties and perused the records.
2. The main grievance of Mr. Ruprah is set up against framing of a charge under Section 39 of the Indian Electricity Act (for short 'the Act'). Mr. Ruprah submits that

no proceedings can be instituted under Section 39 of the Act without following the conditions contained in Section 50 of the Act, Sections 39 and 50 of the Act on reproduction read as under:--

'39. Theft of energy.-- Whoever dishonestly abstracts, consumes or uses any energy shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than one thousand rupees, or with both; and if it is proved that any artificial means or means not authorised by the licensee exist for the abstraction, consumption or use of emergency by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of energy has been dishonestly caused by such consumer.'

'50. Institution of Prosecutions.-- No prosecution shall be instituted against any person for any offence against this Act or any Rule, license or order thereunder, except at the instance of the Government [or a State Electricity Board] or an [Electrical Inspector], or of a person aggrieved by the same.'

3. On a careful consideration of the rival submissions so also from perusal of the materials on record, I am of the view that the argument of Mr. Ruprah merits consideration. Herein, the prosecution under Section 379, IPC was set at motion suo-motu by the police and rightly so as the police is empowered under Cr.PC to do so. However, to launch a prosecution under the Electricity Act, only the persons as mentioned in Section 50 of the Act can set the machinery at motion and thus Section 50 is the basis for invoking the jurisdiction of a Court under the Act.

4. Accordingly, as the mandatory provisions of Section 50 of the Indian Electricity Act have not been followed, the charge framed under Section 39 of the Act being devoid of legal sanction, is hereby quashed. Further, looking to the fact that the trial is almost concluded, the stay granted in terms of the order dated 3-5-2000 is hereby vacated and the learned Trial Judge is directed to proceed as per law in respect of the charge for an offence under Section 379, IPC.

5. Thus, the criminal revision succeeds in part.

C.C. as per rules.

