

Mukesh Kumar Vs. State and anr

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Court : Delhi

Decided On : Sep-07-2000

Reported in : 92(2001)DLT499

Judge : Mr. Dalveer Bhandari

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 379; [Indian Electricity Act, 1910](#) - Sections 39/44

Appeal No. : Crl. Misc. (M). No. 1758 of 2000

Appellant : Mukesh Kumar

Respondent : State and anr

Advocate for Def. : Mrs. Sima Gulati & ; Mr. V.K. Shali, Advs.

Advocate for Pet/Ap. : Mr. H.K. Sharma, Adv

Judgement :

ORDER

Dalveer Bhandari, J. (Oral)

1. This is a petition under Section 482 of the Code of Criminal Procedure for quashing FIR No.264/96 registered under Sections 379 IPC and 39/44 Indian Electricity Act pending in the court of Ms.Swarn Kanta Mehra, M.M., Delhi. Brief facts which are necessary to dispose of this petition are recapitulated as under:

2. On 4.10.1996 at about 1.30 p.m. some officials of the Delhi Vidyut Board (DVB) raided the premises of the petitioner (No.2257, Gali Hinga Bag, Khari Baoli, Delhi) and reported to the police about the theft of electricity against the petitioner from the DVB electric energy poles. Delhi Vidyut Board lodged an FIR bearing No.264/96 dated 7.10.1996 under Section 379 IPC and 39/44 I.E.Act at police station Lahori Gate, Delhi for the alleged theft of electricity by the petitioner.

3. The petitioner applied for the anticipatory bail and the learned ASJ was pleased to grant him anticipatory bail. It is not disputed that the petitioner after the receipt of the impugned theft bill of Rs.2051.89 deposited the entire amount with the DVB. Learned counsel for the petitioner submits that since the petitioner has now deposited the entire amount, therefore, the FIR filed against him be quashed.

4. A reference has been made to the office order dated 16th May, 1996 issued by Delhi Electricity Supply Undertaking (now Delhi Vidyut Board) by the counsel for the petitioner. The same is reproduced as under:

' The Special Officer, exercising the powers of DESU/MCD, vide decision No.5284/GW/Corpn. dated 1st May, 1996 have accorded approval for amendment in the existing tariff so as to limit the period of assessment to four months as against six months in cases of tampering of seals and metering equipment etc., for pilferage of energy and/or direct theft in cases where FIR has not been lodged (for whatever reasons) and the consumer is willing to pay the assessment bill at the rate and manner provided in the tariff.

However, in case the consumer does not come forward and is also not willing to pay the assessed bill immediately, FIR will be lodged beside other actions, including filing of recovery suit of assessment bill for a period of six months as per existing provisions of the tariff.

This issued with the approval of the General Manager.

5. In view of this office order in a large number of writ petitions this court has quashed the FIRs. Details of the cases are recapitulated as under.

6. In CrI.W.P.No.346/2000 titled as Shiv Bhasin & Ors. vs. The State & Anr. decided on 24.5.2000 Division Bench of this court consisting of Usha Mehra, J. and S.N.Kapoor, J. court quashed the FIR and consequent proceedings pending in the court of Ms.Swarn Kanta Mehra, M.M., Delhi on the ground that the entire amount has been paid by the petitioner.

7. In CrI.W.P.No.1189/99 titled as Mahender Kumar & Anr. vs. State & Anr. another Division Bench of this court consisting of Anil Dev Singh, J. and R.S.Sodhi, J. quashed the FIR and proceedings emanating there from on the ground that the entire payment has been made by the petitioner.

8. In CrI.W.P.No.56/2000 titled as Harish Puri & Ors. v. State & Anr. decided on 21.3.2000 a Division Bench of this court consisting of Usha Mehra, J. and S.N.Kapoor, J. quashed the FIR and consequent proceedings in a case in which bill amount was paid by the petitioner.

9. Similar view was also taken in CrI.W.P.No.69/2000 titled as Jai Bhagwan vs. State & Anr. decided on 18.2.2000.

10. The court observed in some of these cases that bare reading of the aforementioned office order would suggest that in case a consumer who is found to have tampered with the seals of the meter or involved in direct theft of electricity, beside other action would be liable for criminal action. It is subject to one exception that in case the consumer is willing to pay the assessed bill at the rate and in the manner provided in the tariff and would come forward immediately for being assessed, no FIR would be lodged beside other actions.

11. Learned counsel for the DVB fairly, states that as the amount of the impugned bill has been paid, the DVB has no objection if the FIR is quashed. Learned counsel for the state also has no objection if the FIR and the consequent proceedings arising out of that FIR are quashed.

12. I have carefully perused the office memorandum and the number of orders passed by the Division Benches of this court.

13. In view of the number of orders of the Division Benches of this court, I deem it appropriate in the interest of justice, to quash FIR No.264/96 under Sections 379 IPC and 39/44 I.E.Act registered at police station Lahori Gate, Delhi and consequent proceedings pending in the court of Ms.Swarn Kanta Mehra, M.M.

14. This petition is accordingly disposed of.

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