

SUPREME COURT OF INDIA

Mukesh Chand

Vs.

State(NCT) of Delhi

Crl.A.No.469-470 of 2019

(Abhay Manohar Sapre and Dinesh Maheshwari,JJ.,)

12.03.2019

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(Crl.)No.227-228 of 2019

1. Leave granted.
2. These appeals are directed against the final judgment and order dated 10.12.2018 passed by the High Court of Delhi at New Delhi in Crl.M.A.No.49292/2018 in Crl.M.C. No.2757/2018 whereby the High Court dismissed the application filed by the appellant herein.
3. A few facts need mention hereinbelow for the disposal of these appeals, which involve a short point.
4. The appellant was a consumer of electricity. He, therefore, obtained one electricity connection from respondent No. 2 - BSES Rajdhani Power Limited(hereinafter referred to as "BSES") for his business premises.
5. Respondent No. 2-BSES sent a bill to the appellant for consumption of electricity to the tune of Rs. 3,54,598.21 on 22.09.2014. According to BSES, the appellant had committed theft of electricity and on it being detected, the bill in question was sent to the appellant.
6. Since the appellant failed to pay the bill amount, the BSES filed FIR against him under Section 135 of the Electricity Act,2003 (hereinafter referred to as "the Act") and sought the appellant's prosecution for commission of theft of electricity under the Act. It was also followed by notice under Section 41 of the Criminal Procedure Code, 1973(hereinafter referred to as "the Crl.P.C.").
7. The appellant and BSES, however, settled the matter in the Special Lok Adalat held on 11.02.2018 for a total sum of Rs.1,60,000/-. An order was accordingly passed by the Lok

Adalat on 11.02.2018. According to the appellant, he has deposited the agreed amount in two instalments.

8. The appellant, therefore, filed a petition under Section 482 of the CrI.P.C. in the High Court of Delhi seeking therein for quashing of the FIR filed by the BSES against him in relation to the aforementioned dispute.

9. By impugned order, the High Court dismissed the petition, which has given rise to filing of these appeals by way of special leave in this Court by the appellant(consumer).

10. Heard Mr. V.K. Sharma, learned counsel for the appellant and Mr. K.M. Nataraj, learned ASG for respondent No.1 and Mr. Sonal Jain, learned counsel for respondent No.2-BSES.

11. Learned counsel for the appellant (consumer) referring to condition(iii) of the order dated 11.02.2018 of the Lok Adalat (Annexure P-5) contended that in the light of the settlement arrived at between the parties wherein the BSES has agreed to withdraw all the cases filed by them against the appellant, the FIR and the criminal case filed by BSES against him has to be disposed of in terms of the settlement arrived at in the Lok Adalat.

12. In reply, learned counsel appearing for respondent No.2-BSES contended that the issue in question has to be decided keeping in view the requirements of Section 152 of the Act.

13. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeals and while setting aside the impugned order remand the case to the High Court for deciding the petition afresh keeping in view the provisions of the Section 152 of the Act.

14. As rightly pointed out by Mr. K.M. Nataraj, learned ASG appearing for respondent No.1, the issue in question needs to be decided in the light of Section 152 of the Act, which deals with compounding of offences under the Act.

15. Since we find that the High Court did not examine the issue in the light of Section 152 of the Act, we consider it proper to remand the case to the High Court to examine the issue afresh keeping in view the provisions of Section 152 of the Act and then pass appropriate orders as the case may require on the facts involved therein in accordance with law.

16. In view of the foregoing discussion, the appeals are allowed, the impugned order is set aside and the case is remanded to the High Court for deciding the matter afresh as indicated above.

17. We make it clear that having formed an opinion to remand the case, we have not applied our mind to the merits of the case. The High Court will, therefore, decide the matter strictly in accordance with law uninfluenced by any observations made by us in this order.

