

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : Indian Electricity Act, 2003

Date of hearing and order: December 02, 2008

CrI. M. C. No.1235/2007

Razia Begum ... Petitioner
Through: Mr. S.D.Ansari, Advocate.

Versus

BSES and Others ... Respondents
Through: Mr. Inderbir Singh, Advocate for Respondent no.1.

SUNIL GAUR, J.

1. Petitioner being registered consumer of Industrial Power through electricity Connection No.2510 of 290008 installed at premises no.B-186, Okhla Industrial Area, Phase-I, owned by her, has been summoned by the Special Court in Complaint Case No.840/2006 titled "BSES Vs. Razia Begum" vide order dated 15th January, 2007.

2. Aforesaid order has been impugned in this petition. Quashing of the aforesaid order has been sought on the ground that the above-said electricity meter connection is existing for the last about thirty years and consumption charges as per reading are being received and the responsibility does not lie with the petitioner if the said meter is running slow and no case of theft of electricity can be made out.

3. Both the sides have been heard and the material available on record has been perused.

4. In July, 2006 the electricity meter of the petitioner was inspected by the team of BSES and as per para 8 of the Criminal Complaint, Annexure-A,

what was found is as under :- “All the three number half seals of the said meter were tampered and re-fixed. The terminal seal was missing and even the terminal plate was found re-welded. The rivets of the said meter were also tampered with and the inner gasket of the meter was missing. Since the meter was found to be tampered, the officials of the complainant checked the accuracy of the said meter with the accuchek instrument and found that the said meter was running slow by 21.25% i.e., it was recording less energy than actually flowing through it by 21.25%.”

5. Learned Counsel for the petitioner contends that Section 135 of the Electricity Act, 2003, is not attracted to the facts of the present case as the accusation of the electricity meter in question running slow cannot be attributed to the petitioner. To say the least, it cannot be prima-facie, so said, in the face of the inspection report as referred to in the preceding paragraph. It is matter of record that on the basis of the aforesaid inspection report, a theft bill of rupees twelve lacs and fourteen thousand odd is pending against petitioner. During the course of the arguments, learned counsel for the petitioner has relied upon Section 25 and 26 of the Delhi Electricity Regulatory Commission (Performance Standards”Metering and Billing) Regulations, 2002, to contend that the prosecution of the petitioner in this Criminal Complaint is bad in law.

6. Learned Counsel for the contesting respondent submits that the issues raised herein on behalf of the petitioner pertains to the realm of evidence and they cannot be pre judged at this stage by exercising inherent powers by this Court.

7. After having heard both the sides, I find that this petition is premature and the questions raised by the petitioner herein are left open to be considered at the appropriate stage at trial as I find that it cannot be said that the ingredients of the offence under Section 135 of the Indian Electricity Act, 2003 are not made out.

8. With the aforesaid directions, this petition as well as pending application, if any, stand disposed of.

Sd/-
SUNIL GAUR, J

