

(2019) 02 CHH CK 0445

Chhattisgarh High Court

Case No: Criminal Miscellaneous Petition (CRMP) No. 474 Of 2019

Naina Agrawal

APPELLANT

Vs

Chhattisgarh State Power

Distribution Company Limited

RESPONDENT

And Ors

Date of Decision: Feb. 25, 2019

Acts Referred:

- Electricity Act, 2003 - Section 135(1)(a), 135(1)(d), 157

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: Dheerendra Pandey, Anant Bajpai

Final Decision: Dismissed

Judgement

Goutam Bhaduri, J

1. Heard.

2. The present petition is for quashing the notice issued to the petitioner under Section 135 (1) (a) & (d) of the Electricity Act, 2003 (hereinafter referred to as the Act, 2003).

3. Learned counsel for the petitioner submits that before issuing the notice under Section 135 (1) (a) & (d) of the Act, 2003 this fact has not been ascertained that the alleged theft of electricity wherein it was alleged belongs to the petitioner or not? He further submits that someone has signed certain notices, which also cannot attribute the allegation on the petitioner. He further submits that the notice was also not issued to the petitioner before launching the prosecution.

4. Perusal of the record would show that a complaint has been filed by the non-applicant No.1 and when the raid was conducted the theft of the electricity was found. Subsequently, after the receipt of the notice an application under Section 157 of the Act, 2003 read with Section 227 of the CRPC was filed by the petitioner, wherein it was stated that Naina Motors, against whom the allegation of theft is made, situates over the land which belongs to the petitioner, however, the petitioner is not the proprietor of the Naina Motors and it is in the name of her husband and the same was given to her husband for construction of Tata Motors workshop. The name of her husband is Nayan Agrawal and the construction was made by Nayan Agrawal.

5. After going through the averments made in the application, *prima facie* it appears that the premises which belong to the petitioner the construction was being made there, wherein the electricity theft was committed who actually has committed the theft it is a matter of defense, as the land belonged to the petitioner and who was holding the reins cannot be decided at the threshold by accepting the averments of the petitioner. This Court under the facts of this case is not inclined to quash the proceedings of the complaint. The petitioner shall raise her defense during the course of trial. The petition has no merit it is accordingly dismissed.