

A

MUKESH CHAND

v

THE STATE(NCT) OF DELHI & ANR
(Criminal Appeal Nos. 469-470 of 2019)

B

MARCH 12, 2019

[ABHAY MANOHAR SAPRE AND
DINESH MAHESHWARI, JJ.]

C

Electricity Act, 2003 – ss.135 and 152 – Respondent No.2-BSES alleged that the appellant had committed theft of electricity and sent a bill of Rs.3,54,598.21/- – Appellant failed to pay the bill amount – Respondent No.2 filed FIR against the appellant u/s.135 of the Act – However, appellant and Respondent No.2 settled the matter in the Special Lok Adalat for a total sum of Rs.1,60,000/- – Appellant filed petition u/s.482 Cr.P.C. to quash FIR filed against him – High Court dismissed the petition – On appeal, held: The High Court did not examine the issue in the light of s.152 of the Act – Thus, case remanded to the High Court for deciding the petition afresh, keeping in view the provisions of s.152 of the Act.

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Allowing the appeals, the Court

HELD: 1. Respondent No.1 rightly pointed out that 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 Electricity Act, 2003. [Para 14] [702-F]

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2. Since the High Court did not examine the issue in the light of Section 152 of the Act, this Court considers 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. [Para 15] [702-G-H]

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
Nos. 469-470 of 2019.

H

From the Judgment and Order dated 10.12.2018 of the High Court of Delhi at New Delhi in Crl. M.A. No. 49292 of 2018 in Crl. M.C. No. 2757 of 2018 . A

V. K. Sharma, Anil Kumar Gautam, Advs. for the Appellant.

K. M. Nataraj, ASG, Ms. Rukhmini Bobde, Amit Kumar (for B. V. Balaram Das), Sonal Jain, Rishabh Raj Jain, Ms. Heena Sharma, Adv. for the respondents. B

The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J. 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. C

3. A few facts need mention hereinbelow for the disposal of these appeals, which involve a short point. D

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. E

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.”). F

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. G

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A 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.

B 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.

C 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
D 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.

E 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.

F 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.

G 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.

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16. In view of the foregoing discussion, the appeals are allowed, A
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 B
uninfluenced by any observations made by us in this order.

Ankit Gyan

Appeals allowed.