

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**

Judgment on: 22.02.2010

C.R.R. No. 63 of 2010

Sri Kajal Hazra

versus

The State of West Bengal & Anr.

Point:

Quashing-Criminal case whether can be quashed for non-availability of F.S.L. report- Code of Criminal Procedure, 1973-S.482

Fact: . Invoking Section 482 of the Code of Criminal Procedure, the petitioner moved this Court for quashing of a charge-sheet relating to an offence punishable under Section 135 (I)(b)(c) of the Electricity Act, 2003.

Held: The non-availability of F.S.L. Report how far will touch the credibility of the prosecution case is a matter of trial and cannot be the ground for quashing. (Paragraph – 4)

For Petitioner : Mr. Tapas Ghosh

For State : Mr. Joy Sengupta

For W.B.S.E.D.

Co. Ltd. : Mr. Aniket Mitra

The Court:

1. Invoking Section 482 of the Code of Criminal Procedure, the petitioner moved this Court for quashing of a charge-sheet relating to an offence punishable under Section 135 (I)(b)(c) of the Electricity Act, 2003.
2. Heard the learned Counsels appearing on behalf of the parties. Considered the charge-sheet materials.
3. The petitioner sought for quashing of the case on the ground that it is the case of tampering of electricity meter and during the investigation such meter was seized by the police and thereafter the same was sent to the F.S.L. for test. But it appears the F.S.L. never received the said meter for testing and there was no material on record to show that the meter was tampered with.
4. Now, having gone through the Case Diary, I find it is true the aforesaid case was registered on the allegation of tampering of an electricity

meter and the meter in question was also seized by the police. Subsequently, the said meter was sent to the F.S.L., but the meter in question was never reached the F.S.L. and there was no report of testing. However, it has been pointed out to me that there was not only the allegation of tampering of the meter but it was also the allegation that at the time of inspection the seal on the meter was found broken and during the internal inspection by the raiding party in presence of the local witnesses it was found that the meter was tampered. Accordingly, it was submitted by the learned advocate of the State this evidence of the raiding party and the local persons are sufficient for charging the petitioner for the alleged offence. The non-availability of F.S.L. Report how far will touch the credibility of the prosecution case is a matter of trial and cannot be the ground for quashing. In view of above, I am of the opinion this is not a fit case for quashing of the charge-sheet. Accordingly, this application stands dismissed. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.
(*Ashim Kumar Roy, J.*)