

**IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**SUBJECT :QUASHING OF COMPLAINT**

CRL.M.C. 4095/2011

Judgment delivered on:9th December, 2011

RAJENDRA KUMAR ..... Petitioner  
Through : Mr. Sanjay Sharma, Adv.

versus

BSES YAMUNA POWER LTD ..... Respondent  
Through : Ms.Anjali Sharma, Adv.

CORAM:  
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

CRL. M.A. 19089/2011 (Exemption)

Allowed subject to all just exceptions.

CRL. M.C. 4095/2011

- 1 Notice issued.
- 2 Ms.Anjali Sharma, learned counsel for respondent accepts notice on behalf of BSES.
- 3 With the consent of parties, the matter is being taken up for final disposal.

4 Vide the instant petition, the petitioner has sought for quashing of proceedings of complaint case No.574/2008 pending before the court of Special Judge, Electricity, Saket Courts, New Delhi.

5 Learned counsel further submits that initially, the respondent raised a bill for the sum of Rs.79,250/- LPSC and the amount due was Rs. 9,43,626/-

6 Learned counsel further submits that thereafter, this bill was settled for Rs.79,250/- and accordingly settlement has been arrived at between the parties. Accordingly, the said bill was paid by the petitioner.

7 Thereafter, respondent issued a notice dated 26.06.2008 to the petitioner which reads as under:-

“This is with reference to the above Enforcement Bill NO. AGENR020120080039 for Rs.9,18,450/- with due dated 17.01.2008. Please note that a amount of Rs.839,200/- is pending against the said bill and the NOC was issued in this case erroneously due to oversight. You are advised to meet the Head Commercial (Enforcement) immediately for payment of the balance amount but not later than 08.07.2008 failing which the company shall be constrained to disconnect the supply to your premises and taken legal action for recovery of the amount by filing a criminal complaint in the Special Court of Electricity.”

8 Thereafter, the respondent issued notice for dis-connection.

9 The petitioner challenges the same by filing suit before the Civil court and against the dis-connection. Initially, the interim injunction was granted and thereafter permanent injunction was granted.

10 The issues whether the bill raised wrongly and whether the bill was settled between the parties is pending before the Civil Court, therefore, learned counsel submits that complaint was filed after 09 months after the civil suit being filed against the petitioner wherein summons have been issued and finally, the notice under Section 251 Cr.P.C. has been framed

11 Learned counsel further submits that since the Civil court has ceased with the matter on the issues which are pending, therefore, the complaint at this stage be rejected and the order passed by the learned Trial Judge may be quashed.

12 On the other hand, learned counsel for respondent submits under Section 145 Electricity Act, no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in Section 126 or an appellate authority referred to in Section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

13 Learned counsel for petitioner further submits, the permanent injunction has been granted by the civil Court has not been challenged by the respondent.

14 Learned counsel for respondent submits that let the Special Judge, Electricity Court may proceed in the matter as per law, and the court may determine the civil liability and punish accordingly.

15 Undisputedly, the Civil suit has been filed wherein, permanent injunction has been granted much prior to the criminal complaint filed by the respondent.

16 Though the settled law is that criminal proceedings and civil proceedings may go on together. Therefore, in the instant case, the issue is on disputed facts, therefore, I deem it appropriate that let Criminal Court proceed further as per provisions laid down in law.

17 However, I direct that the trial court that the final decision shall be passed after considering the effect of the verdict of the civil court.

18 In view of above discussion, no further order is required.

19 Criminal M.C. 4095/2011 is allowed, as per the terms mentioned above.

CRL. M.A. 19088/2011

In view of the above order, this application is being disposed of as infructuous.

Sd/-  
SURESH KAIT, J

