

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr.M.P. No.4619 of 2022**

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Md. Saddam Hussain, aged about 34 years, son of Md. Shafique,  
resident of Shiv Mandir Mohalla, P.O. and P.S.-Chandrapura,  
District-Bokaro. Consumer No.-022524/0381.

... Petitioner

***Versus***

1. The State of Jharkhand, and
2. The Jharkhand Bijli Vitran Nigam Limited through its Managing Director, P.O. & P.S.-Doranda, Ranchi.
3. The Executive Engineer, Jharkhand Bidut Nigam Limited, Bermo, P.O. & P.S. & Distt.-Tenughat, Bokaro.
4. Shri Papu, son of Ram Das Marhi, Assistant Engineer, Bidut Supply, Sub Division-Bermo, Tenughat, District-Bokaro resident of H.No.-63, Kutru, Village-Kutru, P.O. and P.S.-Silli, District-Ranchi.
5. Kunu Ram Tudu, son of Late Sawan Tudu, Junior Engineer, Power Supply Prashakha, P.O. & P.S.-Dugdha/Phusro, District-Bokaro, Jharkhand Permanent Address-Bada ASTI, Gundabanda, Jamshedpur, Jharkhand.

... Opposite Parties

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For the Petitioner : Mr. Ram Badan Choubey, Advocate  
For the State : Mr. Niles Kumar, Sr. SC JBVNL

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**P R E S E N T**

**HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

***By the Court:-*** Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal

Procedure with the prayer to quash and set aside the FIR of Chandrapura P.S. Case no. 138 of 2021 corresponding to G.R. No.1170 of 2021 registered for the offences punishable under Sections 135 & 138 of the Electricity Act, 2003 against the petitioner.

3. The allegation against the petitioner is that the petitioner was drawing electric energy in excess of the sanctioned load without a meter and was providing electricity to the tenants by causing a loss of Rs.1,50,000/- to the Electric Supply Agency.

4. On the basis of written report submitted by the informant, police registered Chandrapura P.S. Case no. 138 of 2021 involving the offences punishable under Sections 135 & 138 of the Electricity Act, 2003 and took up investigation of the case. It is submitted by the learned counsel for the petitioner that the investigation of the case is going on at present.

5. Learned counsel for the petitioner submits that the allegation against the petitioner is false. It is next submitted that the petitioner did not receive the electricity bill for 36 months due to COVID-19 pandemic, though during those period the petitioner used electric energy. It is further submitted that the name of the petitioner has been incorporated in the FIR subsequent to registration of the FIR. It is also submitted that the petitioner never refused to pay the electricity dues.

6. In support of his case, the learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Ram Chander Prasad Sharma vs. State of Bihar and Another** reported in **AIR 1967 SC 349** and submitted that in the facts of that case, the Hon'ble

Supreme Court of India has held that the conviction of the appellant before the Supreme Court in that case, for the offences punishable under Section 39 of the Indian Electricity Act is not maintainable. Therefore, it is submitted that the prayer as prayed for, in this Cr.M.P., be allowed.

7. Learned counsel for the JBVNL on the other hand vehemently opposes the prayer and submits that there is direct and specific allegation against the petitioner of committing theft of electricity. It is next submitted that there is no justifiable reason to quash the entire criminal proceeding, hence, this Cr.M.P., being without any merit be dismissed.

8. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that petitioner though used the electric energy for a period of over three years but he has not paid the dues on the ground that he was not receiving the electricity bills during that period.

9. Perusal of the record reveals that there is direct and specific allegation against the petitioner of using electric energy in excess of the sanction load and supplying the said electric energy to his tenants without meters in an unauthorised manner, which resulted in loss of Rs.1,50,000/- to the Electric Supply Agency.

10. The contention of the petitioner that the allegation against him are false, is a defence of the petitioner which cannot be considered by this Court in exercise of its power under Section 482 of Cr.P.C; in view of the settled principle of law that the defence of the accused person of any case and the veracity of the evidence put forth by the accused person, cannot

be considered by the High Court, in exercise of its jurisdiction under Section 482 Cr.P.C. which corresponds to Section 528 of the B.N.S.S., 2023, as that would be job of the trial court, as has been held by the Hon'ble Supreme Court of India, in the case of **State of Madhya Pradesh vs. Awadh Kishore Gupta & Ors.** reported in 2004 2 Supreme 501.

11. It is also a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of **Harjinder Singh vs. State of Punjab and Another** reported in 2025 SCC OnLine SC 1029 wherein the settled principle of law that the defence of the accused person of a case cannot be considered before prosecution adduces evidence has been reiterated in paragraph-11 of the said judgment which reads as under:-

*11.xxx The primary argument of Respondent no. 2 rests on his alibi. An alibi, however, is a plea in the nature of a defence; the burden to establish it rests squarely on the accused. Here, the documents relied upon, parking chit, chemist's receipt, OPD card, CCTV clip, have yet to be formally proved. Until that exercise is undertaken, they remain untested pieces of paper. To treat them as conclusive at the threshold would invert the established order of criminal proceedings, requiring the Court to pronounce upon a defence before the prosecution is allowed to lead its full evidence. Even assuming the documents will eventually be proved, their face value does not eclipse the prosecution version. The parking slip is timed at 06 : 30 a.m.; the chemist's bill and CCTV images are from 12 : 09 p.m. The confrontation is alleged at 08 : 30 a.m. A road journey from Jagowal to Chandigarh of roughly ninety kilometres in a private vehicle can comfortably be accomplished within the intervening window. More importantly, abetment to suicide is not an offence committed at a single moment. It may consist of a build-up of psychological pressure culminating in self-destruction, and the law punishes that build-up wherever and whenever it occurs. (Emphasis supplied)*

12. It remains undisputed that if the allegations against the petitioner are considered to be true in their entirety as made in the FIR, the offence punishable under Section 135 of the Electricity Act, 2003 is made out.

13. Under such circumstances, this Court is of the considered view that this is not a fit case where the entire criminal proceeding against the petitioner is to be quashed and set aside, in exercise of the power under section 482 of the Code of Criminal Procedure.

14. Accordingly, this Cr.M.P., being without any merit, is dismissed.

**(Anil Kumar Choudhary, J.)**

High Court of Jharkhand, Ranchi  
Dated the 18<sup>th</sup> of September, 2025  
AFR/ Abhiraj