

IN THE COURT OF THE SPECIAL JUDGE, ELECTRICITY:
BHUBANESWAR.

PRESENT:-

Sri I.K. Das, LLB
Special Judge, Electricity, Bhubaneswar.

T.R No. 192 of 2012

Vide Hon'ble Courts Letter No. 8017 (44) dtd. 9.9.2014
Status of the accused person/persons:

1. Accused is on bail:
2. Accused is present:

Date of argument- 18.09.14
Date of Judgment- 26.09.14

S t a t e
Vrs.

Nilu Behera, aged about 30 years
S/o Late Dwarikanath Behera, resident of : Shampur
PS: Khandagiri, Dist: Khurda

....Accused person

Advocate for the prosecution-

Sri A.K. Sahu, Addl. P.P. BBSR

Advocate for Accused

Shri R. Naik, Advocate

Offence Under Sections:-

135 of Electricity Act.

J U D G M E N T

The accused stands charged for the offence u/s 135 of Electricity Act 2003.

2. As per the allegation, Jr. Manager, Electrical, Bharatpur Section and his staff with MRT squad and staff of energy PS were performing dehooking patrolling duty at village Sampur on dtd. 28.6.11 and detected the accused was availing electricity unauthorziedly in his house by hooking from the LT line. Such act of the accused caused loss of Rs.10,000/- to CESU. The Jr. Manager lodged FIR before IIC, Energy PS and the police registered PS case No. 74/11 and

one S.N. Paikray, SI of Police took up investigation of the case.

During course of investigation, police examined witnesses, seized the PVC wire used as hook alongwith one electric bulb from the house of the accused and after completion of investigation submitted charge sheet.

3. Plea of the defence is complete denial to the allegation and of false allegation.

4. Point for determination in this case is

whether on dt. 28.6.111 at about 10.50 AM at Sampur, the accused was found unauthorizedly consuming electric energy by hooking process from LT line in his shop ?

5. During the course of trial, prosecution examined 3 witnesses out of which P.W.1 was working as Jr. Manager, Electrical, Khandagiri Section, P.W.2 is the informant and P.W.3 is the IO.

6. P.W.1 in his evidence said that on the relevant day, he alongwith other staffs while patrolling at village Sampur at about 10.30 AM, detected that the accused was consuming electricity unauthorizedly by hooking from the LT line. He was also a consumer under CESU. The lineman dehooked the hook and the police seized the hook wire and one bulb at the spot. After preparation of seizure list he also signed thereon. But, in his cross examination, he gave a contradictory statement that he cannot say why he signed on the seizure list and in connection to which case. He was also not examined by the police. He had not entered into the case house and also he cannot say the name of the consumer. P.W.2, another Jr. Manager who is the informant himself said that the mother of the accused was the consumer, but he did not explain as to why FIR was lodged against the accused. A physical verification report was also prepared at the spot which is also filed in the Court. But, it has not been exhibited. But, on perusal of the report it appears that there was bypass in the meter by use of another wire in the cut out. PW 2 said he cannot say if the physical verification report was prepared in presence of the accused or not. He has also not verified about the ownership of the case house. P.W.3 is the IO of the case. But, he said that he cannot name the witnesses present at the spot. He has also not recorded the statement of

independent witnesses. Any document regarding the ownership of the house was also not examined during investigation. Although, he kept the seized article in PS Malkhana he cannot say the Mal item number.

7. On the basis of such evidence, learned counsel for the accused argued that the evidence of witnesses do not repose confidence to rely on such witnesses. The physical verification report discloses that one Smt. Sulochana Behera was the owner of the case house and she was the consumer under CESU. There is no evidence on record that the present accused was exclusively possessing the house or that he put the hook on the LT line to consume electricity unauthorizedly. Not a single witness from the locality has been examined to say that accused is responsible for hooking and he was in possession of the case house. The seizure list does not contain the signature of the accused to show that he was present at the time of seizure. Under such circumstances, prosecution has failed to prove its case beyond reasonable doubt.

8. In the result, the accused is found not guilty for the offence u/s 135 of Electricity Act, 2003 and is acquitted thereof U/s.248 of Code of Criminal Procedure. He be set at liberty forthwith. His bail bond be canceled and sureties discharged.

9. The seized articles if any, be destroyed after four months of appeal period if no appeal is preferred or if appeal is preferred the same be dealt with in accordance with the direction of the Appellate Court.

Pronounced in the open Court to-day the 26th day of September, 2014

Special Judge, Electricity, Bhubaneswar.

Typed to my dictation and
corrected by me.

Special Judge, Electricity, Bhubaneswar.

List of witnesses examined for the prosecution

P.W.1:-D. Jaykumar

P.W.2:- Judhistir Choudhury

P.W.3:- Symnath Paikray

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1: Seizure list

Ext.1/1: Signature of P.W.1

Ext.2: FIR

Ext.2/1: Signature of P.W.1

Ext.2/2: Endorsement and signature of P.W.3

Ext.1/2: Signature of P.W.3

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.