

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

PRESENT:-

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

T.R No. 204 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- 13.11.14
Date of Judgment- 17.11.14

S t a t e
Vrs.

Baisnab Rout, aged about years
S/o Bhagyadhar Rout, resident of Laxmisagar
PS: Laxmisagar, Dist; Khurda

....Accused person

Advocate for the prosecution-

Sri N.R. Ray, Addl. P.P. BBSR

Advocate for Accused

Shri S.K. Patnaik, 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. One Santosh Kumar Sahu, Jr. Manager, Electrical Section, Kalpana II, CESU submitted written report that on 6.6.11 at 4 PM he alongwith his staff and the police staff of energy PS were jointly conducting patrolling duty for detection of hooking at Laxmisagar Dalakhai BDA market. He detected the accused was running a hotel-cum- tiffin shop int he market and was consuming electricity by hooking from the LT line. He lodged report before IIC who

registered PS case No. 62/11 for the offence u/s 135 of Electricity Act and investigation of the case was taken up. During course of investigation, police examined the informant and witnesses at the spot, seized the hook wire and one electric bulb from the alleged shop and after completion of investigation submitted charge sheet against the accused.

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.6.6.11 at about 4 PM at Laxmisagar Dalakhai BDA Market, the accused was found unauthorizedly consuming electric energy by hooking process from the LT line in his shop ?

5. During trial, prosecution examined 3 witnesses out of P.W.1 is the Jr. Manager who is the informant of the case. P.W.2 is the lineman who was present at the spot and p.W.3 is the IO. Defence did not prefer to adduce any evidence.

6. P.W.1 in his evidence supported his FiR and said that the accused could not show any authority for consuming electricity in his hotel. He also proved the FIR to be Ext.1 and supported the seizure by the police. In his cross examination, PW.1 said that he being the local Jr. Manager, Electricity has knowledge about the locality. Four to five police staff were also present with the IIC. Some other shops adjacent to the hotel were also situated, but he failed to say the name of the shop owners. He said that some customers were present in the hotel, but again denied his knowledge regarding presence of customers. He also said that police examined some nearby shopkeepers. P.W.2, the lineman supported the FIR story. But, in his evidence he said that the accused was using a ceiling fan in his hotel which is not supported through the seizure list. The IO in his evidence said that on the relevant day, he alongwith staff and electrical staff jointly conducted raid at BDA market, Laxmisagar and detected the accused consuming electricity unauthrozedly in his hotel. He also supported that he seized the hooking wire and one electric bulb from the hotel. He only examined the informant as appears from his evidence. But, in his cross examination he said that 10 to 15 persons were present at the spot. He also admitted that he has not ascertained regarding

ownership of the hotel in question and he has also not enquired about identification of the accused.

7. Learned defence counsel while arguing the case submitted that there is no material on record as to who put the hook on the LT line. That apart, there is no consistent material regarding ownership of the alleged hotel. Although, P.W.1 said that he has got experience in the locality and knows that the hotel belongs to the accused, such evidence does not lead confidence as he fails to say the name of any other shopkeeper at the same place. The IO who conducted investigation should have ascertained regarding ownership of the hotel as the owner will be liable for unauthorized consumption of electricity. But, he himself admitted that he did not enquire into the ownership of the hotel during his investigation. Further, I find although many outsiders were present at the time of detection of the case, none of them has been shown as witness to the seizure nor examined by the IO which also creates doubt regarding the authenticity of investigation. The other electrical staff who is witness to seizure is also not examined in the Court. Taking into consideration the material available on record and quality of evidence of witnesses, I feel prosecution has miserably failed to prove the case against the accused 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 bonds be cancelled 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 17th day of November, 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:- Santosh Kumar Sahu

P.W.2:- Benudhar Mohapatra

P.W.3:- Prasana Kumar Sahu

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1: FIR

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

Ext.2: Seizure list

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

Ext.1/2: Endorsement of IIC

Ext.1/3: Signature of IIC

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

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.