

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

PRESENT:-

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

T.R No. 24 of 2010

Date of argument- 22.09.14
Date of Judgment- 29.09.14

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:

S t a t e
Vrs.

Sisir Kumar Moharana, aged about 46 years
S/o Chaitanya Moharana, resident of: Pahiraghunathpur
PS/Dist: Kendrapara

....Accused person

Advocate for the prosecution-

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

Advocate for Accused

Shri M.M. Jena, 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. Asst. Manager, Commerce, Peripheral Subdivision, CESU BBSR reported before IIC, Energy PS, Khurda on 27.8.09 that one Sisir Kumar Moharana was consuming electricity unauthorizedly by hooking process near S-5, Niladri Vihar from pole No. 22010562003. The IIC registered the case and on his direction one SI of Police took up investigation. During course of investigation, police visited the spot, examined witnesses, seized the hooking wire and one

machine for polishing wood and thereafter, left the machine in zima of the accused and after completion of investigation, submitted charge sheet against the accused u/s 135 of Electricity Act.

3. Plea of the defence is complete denial to the allegation and of false allegation. The accused in his statement u/s 313 Cr.P.C stated that he was working as helper under a carpenter at the relevant time.

4. Point for determination in this case is whether on dt.27.8.09 at about 4 PM at S-5,Niladrivihar, the accused was found unauthorisedly consuming electric energy by hooking process in his house from LT line ?

5. Prosecution examined 4 witnesses out of which P.W.1 was working as peon under the informant. P.W.2 is the informant himself, P.W.3 is a lineman and P.W.4 is the IO.

6. P.W.1 in his evidence said that on 27.8.09 he alongwith other electrical staff had been to Sailashree Vihar for checking electrical hooking. The Jr. Manager told him that there was hooking in a house. Learned Addl. PP declined him hostile and cross examined him confronting him with the statement recorded by the police u/s 161 Cr.P.C. But, he categorically denied that the accused was consuming electricity unauthorizedly on the relevant day. He further said that he knows the accused very well. As regards seizure, although he proved his signature on the seizure list he categorically denied the contents thereof. He signed on the seizure list only at the instance of Jr. Manager. P.W.2, the informant said on the relevant day he found a new building was connected with LT line by hooking process and at the relevant time, carpentry work was going on in the building. As he asked the carpenter he went away from the spot and thereafter, he lodged FIR. In his cross examination, he said that local people did not come to the spot and one lineman dehooked as per his direction. He could not ascertain as to who was the owner of the case house. P.W.3 was a lineman who also accompanied the Asst. Manager at the relevant time. He said the case house was adjacent to the house of one Renubala Panda and carpentry work was going on by using electricity by hooking process. He also said after arrival of police, the

hooking wire was seized. But, in his cross examination he admitted that 7 to 8 local persons were present at the time of seizure. p.W 4 the IO supported his investigation. He also admitted about presence of some local witnesses at the spot and the accused was also present. During investigation, he has not verified any document regarding the ownership of the house. Seizure was made in presence of P.W.1.

7. This being the evidence adduced by the prosecution, defence did not prefer to adduce any evidence. Learned counsel for the accused argued that the case initiated against the accused is purely doubtful in view of evidence of witnesses. Although number of local witnesses were present, none of them was examined by the IO or the Asst. Manager to know about the owner of the house or the person who hooked with the LT line and consuming electricity unauthorizedly. IO also did not examine any papers regarding the ownership of the house. It is apparent in the evidence of P.W.2 that as he asked the carpenter he went away. The present accused admits to be one helper of the carpenter. It was a new building. There is no evidence as to if any person was staying in the building or not. A labourer who was working as helper under the carpenter is no way liable for hooking and there is also no evidence that the accused was staying in the house or hooked with the LT line for consumption of electricity unauthorizedly. The seizure of the wire is also doubtful in view of evidence of P.W.1. Although, IO said P.W.1 was present at the spot at the time of detection of the case and at the time of seizure, he categorically denied about his knowledge, although said he signed on the seizure list at the instance of Asst. Manager. His evidence does not reveal that he saw the hooking on the relevant day, rather he said that P.W.2 told him about hooking in a house. The evidence of the IO does not reveal as to why he did not examine the local witnesses, although they were present at the spot. After hearing learned defence counsel and the learned Addl. PP I find sufficient force in the contention of the learned counsel and therefore, I feel prosecution has miserably 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 29th 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:- Antaryami Das

P.W.2:- Swapnasarit Mishra

P.W.3:- Bipin Bihari Das

P.W.4:- Prasana Kumar Sahu

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1: Signature of P.W.1

Ext.2: FIR

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

Ext.1/1: Seizure list

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

Ext.2/2: Signature and endorsement of IIC

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.

