

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

PRESENT:-

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

T.R No. 27 of 2010

Date of argument- 02.01.15
Date of Judgment- 05.01.15

State
Vrs.

Bhaskar Baral, aged about 35 years
S/o Jagannath Baral, resident of: Gunthala
PS: Delang, Dist; Puri

....Accused person

Advocate for the prosecution-

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

Advocate for Accused

Shri S. K. Pani, 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 prosecution case, Jr. Manager, Electrical, Harirajpur Electrical Section while performing dehooking patrolling duty on dtd. 7.9.09 at Kudiary Bazar detected that the accused was consuming electricity unauthorizedly from the chicken shop of one Samir Khan to his house FIR having been lodged by Jr. Manager, IIC energy PS registered PS case No. 69/09 and directed for investigation of the case. During the course of investigation, police visited the spot, examined the witnesses, seized the hook wire along with one electric bulb and after completion of investigation submitted charge sheet against the accused warranting the trial.

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.7.9.09 at about 12 AM, the accused was found unauthorizedly consuming electric energy by hooking process in his house from LT line ?
5. Out of 4 prosecution witnesses examined in the Court, P.W.1 is the Jr. Artisan, A, P.W.2 is one homeguard, P.W.3 is the Jr. Manager and P.W.4 is the Investigating officer of the case.
6. P.W.3 is the informant of the case. In his evidence he said that on 7.9.09 he was working as Jr. Manager, Electrical, Harirajpur Section, Khurda. On the same day, at about 12 noon he had been to Kudiary bazar for electrical checking. He found accused had taken illegal connection of electricity to his poultry firm and was also using energy in his residential house by hooking process. It was noticed that the accused was using electric bulb, fan and freeze for which he reported the matter vide Ext.2. In his cross examination, he said that he does not remember the date of occurrence and the distance between the poultry firm and the residential house is about 100 to 150 meter. From the local enquiry, he ascertained that the accused was staying in the house. He failed to say if accused was possessing the house on rent or he was the owner of the house. P.W.1 claimed that he accompanied the Jr. Manager to the case house on the relevant day with the homeguard. At Kudiary bazar, they saw one Samir Khan was having a chicken shop and the accused Bhaskar Baral was consuming electricity illegally by taking connection from the chicken shop with a PVC wire. He said he went to energy PS and reported the matter and after arrival of police he removed the hook which was seized in his presence vide Ext.1. The homeguard while examined as P.W.2 denied his knowledge about the case and said that he signed on the seizure list as per the direction of the IIC. This witness has been declared hostile and cross examined by the prosecution. But, nothing substantial has been elicited from his mouth to prove that he deposed falsehood in the Court or suppressed the truth. In his cross examination, he said that he does not know about the contents of the seizure list and signed on it at the PS. P.W.4, the IO in his evidence said

that on the report of the Jr. Manager the case was registered and during spot visit, he examined the witnesses. He further admitted that the asbestos house in occupation of the accused was a rented house and he had taken unauthorized connection from the shop of Samir Khan. He also supported the seizure of PVC wire, one tubelight and electric bulb vide Ext.1. In his cross examination, he admitted that he cannot say the plot number of the case house and local witnesses have not been examined.

7. This being the evidence adduced by the prosecution witnesses, learned defence counsel argued that in order to prove offence u/s 135 of Electricity Act, 2003, prosecution is to prove that the accused dishonestly took overhead connection from the service wire of the chicken counter of Samir Khan and thereby caused loss to the State. On perusal of seizure list, it appears that the case house was a rented house wherein the accused was staying and the hook was fixed with the service wire of the nearby the chicken shop. On further perusal of seizure list it appears one black colour copper wire was seized which was used as hook having length of 16 meters only. The informant himself in his cross examination admitted that the distance between the poultry firm and the asbestos house is about 100 to 150 meters. Therefore, it is doubtful as to how the accused was consuming electricity by using a piece of wire of 16 meters only. It has further been argued that in absence of any document regarding ownership of the house, prosecution should have examined local witnesses atleast to prove that the accused was occupying the asbestos house and was responsible for hooking. But, prosecution failed to examine any of the co villager to establish the ownership of the house. None of the witness said that the accused is responsible for hooking, although the house does not belong to him. The owner of the chicken shop Samir Khan is the material witness to say about the role of the accused in hooking as the hook was connected with his service wire. There is no allegation that there was hooking to the chicken shop or there was no electric meter. Therefore, even if it is accepted that there was hooking from the service wire from the chicken counter, the electric meter will give reading regarding consumption of electricity in the asbestos house. Learned counsel for the accused argued that the asbestos house

and the chicken shop having been situated in the same premises, it is very probable that Samir Khan might have been the owner of the both the houses and if at all there was any hooking only he will be responsible for the same.

8. After perusal of evidence of the witnesses, I find that the investigation of the case has not been conducted in proper way to find out the real accused and accordingly, prosecution fails to prove the offence against the accused beyond reasonable doubt.

9. 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.

10. 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 5th day of January, 2015

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:- Pradyumna Kumar Sethi

P.W.2:- Prafulla Barik

P.W.3:- Laxmidhar Rout

P.W.4:- Pramod Kumar Jaisingh

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

Ext.2: FIR

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

Ext.2/2: Endorsement with signature of P.W.4

Ext.3: Spot map

Ext.3/1: Signature of P.W.4

Ext.1/3: Signature of P.W.4

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.