

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

PRESENT:-

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

T.R No. 59 of 2010

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- 15.10.14
Date of Judgment- 18.10.14

S t a t e
Vrs.

Sangram Keshari Prasad Pandey, aged about 74 years
S/o Late Jagannath Prasad Pandey, resident of: Mahatab Road
PS: Airfield, Dist; Khurda

....Accused person

Advocate for the prosecution-

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

Advocate for Accused

Shri A.K. Acharya, 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. Prosecution set to motion on the report of one M. Rabindranath Senapati, Asst. Manager, Electrical, Dhauli Section that on 6.11.2009 at about 4.30 PM while he alongwith his staff were performing de-hooking checking at Baunsakhani area, they noticed the accused was consuming electricity by hooking process in his house by cutting insulation from the LT line. Therefore, he lodged FIR at energy PS. The IIC, Energy PS came to the spot and took up investigation of the case.

During investigation, police visited the spot, examined witnesses and seized one black PVC wire 6 mm of length 20ft and one bulb and prepared seizure list. After completion of investigation, submitted charge sheet against the accused warranting 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 dtd.6.11.2009 at about 4.30 PM at Kapila Prasad, the accused was found unauthorizedly consuming electric energy by hooking process taking the same from LT line in his house ?

5. In order to prove its case, prosecution examined 4 witnesses out of which P.W.2 is the informant. P.W.1 is the lineman, P.W.3 is the electrical helper and P.W.4 is the IO of the case.

6. P.Ws.1,2 and 3 are three departmental witnesses and P.W.4 is the IO of the case. Both P.Ws. 1 and 3 are electrical lineman and in their evidence, they said that on 6.11.09, the JE, Dhauli Section took them to Bhimtangi area for electrical checking. They found that the accused was consuming electricity by hooking and the LT line with insulator was cut for discharge of electricity through the hook. P.W.2 in his evidence said that the accused was a consumer and his line was disconnected as he did not pay huge quantity of electrical dues. Similar is the evidence of P.W.3.

7. During the course of argument, learned defence counsel argued that the wife of the accused was electrical consumer and her line was disconnected as she did not pay the electrical dues. There is no evidence on record that the accused put the hook on the LT line by cutting the insulator, but police submitted charge sheet without proper investigation. It is also not possible on the part of a common man to cut the insulator on the electric pole and to connect the hook with the conductor in order to consume electricity. P.W.3 in his cross examination admitted that 3 to 4 villagers were present at the spot, but none of them has been examined. The IO in his evidence although said that on the report of the informant he visited the spot and seized one PVC wire and one electric bulb.

Prosecution did not exhibit the seizure list through the mouth of the IO. On the other hand, learned Addl. PP submitted that the accused is responsible for putting the hook on the conductor and thereby, consumed unauthorisedly electricity for which he is liable for conviction. Admittedly, the wife of the accused was the consumer which suggest that the accused alongwith his family members were staying in the case house. In absence of any evidence regarding complicity of accused in putting the hook on the LT line, it is not possible to say that the accused is liable for the crime. As argued by the learned defence counsel, it is also not possible on the part of a common man to cut the insulator on the pole and to connect the hook with the LT line. The investigating officer should have conducted investigation in this manner to find out the person who is responsible for the same. There is no evidence in the mouth of the IO that atleast he examined the villagers to ascertain the truth and simply he submitted charge sheet against the accused being the husband of the consumer. The seized articles are also not produced in the Court for proper identification by the witnesses.

8. Considering such irregularities and inconsistencies in the evidence of prosecution witnesses, I believe prosecution has not been able to prove the case against the accused.

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 18th day of October, 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:- Gouranga Charan Das

P.W.2:- M. Rabindranath Senapati

P.W.3:- Pramod Kumar Naik

P.W.4:- Pramod Kumar Jaisingh

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1: Signature of P.W.1

Ext.2: Written report of P.W.2

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

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

Ext.2/2: Signature and endorsement of P.W.4

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.