

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

PRESENT:-

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

T.R No. 66 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- 16.10.14

S t a t e
Vrs.

Jogendra Barik, aged about 58 years
S/o Kesab Barik, resident of: Kantabad
PS: Chandaka, Dist; Khurda

....Accused person

Advocate for the prosecution-

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

Advocate for Accused

Shri R.K. Paltasingh, 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. On the report of one Shreedhara Naik, Asst. Manager, Electrical on 12.10.09 at about 11.15 AM, he alongwith his staff were performing de-hooking checking at village Kantabada noticed the accused was consuming electricity by hooking from the LT line in his house. Thereafter, the informant lodged FIR before energy Police. Police came to the spot and investigated into the matter.

During investigation, police visited the spot, examined witnesses and seized PVC wire 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 dt.12.10.09 at about 11.15 AM at Kantabad, the accused was found unauthorizedly consuming electric energy by hooking process taking the same from LT line in his house ?

5. Prosecution examined 5 witnesses out of which P.W.1 is the informant. P.Ws.2,3 and 4 are electrical helpers and P.W.5 is the IO of the case.

6. All the three departmental witnesses examined as Pws.1,2 and 3 supported that all of them while patrolling at village Kantabad detected the accused was consuming electricity unauthorizedly in his house by hooking from the LT line. Thereafter, FIR was lodged by the Deputy Manager and thereafter, investigation was taken up. Police also seized the PVC wire used as hook and one electric bulb from the spot.

7. During the course of argument, learned defence counsel argued that there are material contradictions between the evidence of all the witnesses which does not lead to believe the prosecution case. P.W.1 in his cross examination said he had not known the accused prior to the detection of the case and P.W.2, Panchu identified the accused and his house to P.W.1. P.W.2, Panchu on the other hand, deposed in his cross examination that P.W.1 identified the accused and his house to him. Therefore, the house in question and the accused were although not known to the witnesses, there is no material on record as to who identified the same to them. That apart, P.W.1 said that he has not enquired any of the villagers or any documents of the case house to ascertain that the house belongs to the accused. The IO of the case, P.W.5 has also not directed his investigation in this manner. Further doubt arises regarding presence of the accused at the relevant time. P.W.1 said in his cross examination that the accused was present and was arrested at the spot. P.W.2 also said in support of P.W.1 that police detained the accused at the spot. But, the IO said that the accused was not present at the spot. Record reveals that on 16.10.09, the accused voluntarily surrendered in the Court.

Therefore, the presence of witnesses at the spot remains in doubt. As regards seizure of PVC wire and electric bulb, P.W.3 who proved his signature on the seizure list said that he signed on the seizure list at PS, whereas seizure was made at the spot in the house of the accused. P.W.3, another seizure witness said police took his signature on the seizure list at first and thereafter, the seizure list was prepared. Such evidence of the departmental witnesses keeps in doubt regarding seizure of any article from the house of the accused. As regards of presence of police and investigation, the evidence is also contradictory in the mouth of the witnesses. P.W.3 in his cross examination said police reached at the spot at about 12.30 PM. P.W.4 said police came to the spot at about 11.30 to 12 noon. But, the IO said he reached at the spot at about 5.30 PM. The IO admitted in his cross examination that Dharani and Purna are two adjacent house owners of the case house, but none of them has been examined to say that accused is responsible for hooking in the case house. The family members of the accused are not not examined in the case in order to throw light on the prosecution case. Seized articles are not produced in the Court for proper identification.

8. Learned Addl. PP during his argument submitted that the material on record although finds some latches and contradictions, yet the available material are sufficient to prove the prosecution case against the accused. It is submitted that P.Ws.2 and 3 being electrical lineman were regularly visiting the case village and therefore, identification of the house cannot be doubted. But, their evidence in this respect is completely silent. None of them said that the house in question was known to them prior to the case and accused was also known to them. On the other hand, P.W.2 said that P.W.1 identified the house to him. After going through the evidence on record and its nature, I feel prosecution miserably failed 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 16th 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:- Sridhara Naik

P.W.2:- Panchu Das

P.W.3:- Kuna Martha

P.W.4:- Jayram Behera

P.W.5:- 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.2/2: Signature of P.W.3

Ext.1/2: Endorsement of IIC

Ext.1/3: Signature of IIC

Ext.2/3: Signature of P.W.5

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.

