

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

PRESENT:-

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

T.R No. 69 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- 13.11.14
Date of Judgment- 20.11.14

S t a t e
Vrs.

Prafulla Kumar Pattnaik, aged about 50 years
S/o Bhramarbara Pattnaik, resident of Godisahi
PS/Dist: Khurda

....Accused person

Advocate for the prosecution-

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

Advocate for Accused

Shri P.M. Pattajoshi, 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 has started against the accused on the report of one Samir Kumar Swain, Jr. Manager, Electrical, Baghamari Section, Khurda was patrolling with his staff on 11.8.09 at village Godisahi and found the accused was consuming electricity unauthorizedly in his grocery shop by hooking from the LT line. Accordingly, he lodged FIR before IIC, Energy PS and the police took up investigation of the case. Police visited the spot, examined the informant and

other witnesses, seized the hooking wire and one electric bulb and after completion of investigation submitted charge sheet.

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.11.8.09 at about 4 PM at Godisahi, Khurda, the accused was found unauthorizedly consuming electric energy by hooking process from the LT line in his shop ?

5. Prosecution examined 3 witnesses, out of which P.W.1 is the informant, P.W.2 was the lineman and P.W.3 is the IO. No witness has been examined from the side of defence.

6. P.W.1 in his evidence deposed that on 11.8.09 while patrolling with staff he found the accused was consuming electricity unauthorizedly by hooking from the LT line. He came back to police and reported through his FIR vide Ext.1. Police also immediately came to the spot and seized the hooking wire and electric bulb. In his cross examination, he said that he cannot say the khata No. and plot No. of the case house and no local witnesses were present at the spot at the time of detection of the case. P.W.2, the lineman corroborated the evidence of P.W.1 and said that seizure was made in his presence. He also failed to say khata No. and plot no. of the case house in order to ascertain the ownership of the house. The IO in his evidence supported his investigation and also arrested the accused. He has also not ascertained the khata No. and plot No. of the case house, but he admitted in his cross examination that although many local witnesses were present at the spot, they did not open their mouth for which they have not been cited as witness.

7. This being the evidence available on record, learned counsel for the accused submitted that there is no material on record that hooking was made in the shop owned by the accused. No document in respect of the case house has been seized by the police or has been examined during investigation to ascertain that the accused is the owner of the shop. Furthermore, evidence is completely silent as to who put the hook on the LT line to consume electricity unauthorizedly. Not a single villager has been examined by the prosecution to say that the accused

was the owner of the case house or the shop to give presumption that he hooked on the LT line. It is submitted that even if the accused is the owner of the case house and shop is owned by some other, then prosecution is at the onus to bring evidence as to who put the hook on the LT line. The evidence is completely silent in this respect and the accused has been entangled in this case with the allegation that he is the owner of the shop and responsible for hooking. Learned Addl. PP objected such argument and submitted that the accused being the owner of the shop there is every presumption that he is the owner of the house and responsible for hooking. But, not a single document is filed to show that the accused is the owner of the shop nor a single witness has been examined from the same village to say that accused was the owner of the shop or the case house at the relevant time. During the course of investigation, the IO has not directed his investigation to ascertain the role of the accused in the case and mechanically submitted charge sheet without verification of the documents or examining the local villagers. The local RI or Sarpanch could have been requisitioned by the IO if at all the local villager did not cooperate with the investigation of the case. P.Ws.1 and 2, although said that they know the accused. Their evidence is completely silent as to how the accused is known to them. In addition to such deficiency in prosecution evidence, the seized wire and the bulb are not produced in the Court for identification by the witnesses during the course of trial. After hearing argument from both the sides and examining the material on record, I find prosecution 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 20th 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:- Samir Kumar Swain

P.W.2:- Dharanidhar Pradhan

P.W.3:- Prasana Kumar Sahoo

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 and signature of P.W.3

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

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.