

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

PRESENT:-

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

T.R No. 26 of 2010
(Arising out of Energy PS case No.64 of 2009)

Date of argument- 28.11.13
Date of Judgment- 10.12.13

S t a t e
Vrs.

Debaraj Behera, aged about 42 years
S/o Late Bhramarabar Beherea, resident of: Patharagadia
PS: Chandaka, Dist; Khurda

....Accused person

Advocate for the prosecution-

Sri N.R. Ray, Addl. P.P. BBSR

Advocate for Accused

Shri R. Nayak, 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 Swapnasarit Mishra, Assistant Manager, Commerce, CESU, Bhubaneswar before IIC Energy Police Station Khurda on dt.27.8.09. As per the FIR, the informant intimated to IIC, Energy PS that accused Debaraj Behera was availing power supply by hooking process in his cabin at village Patharagadia. Police registered the case examined the informant and rushed to the spot. A spot map was prepared. The black and green colour PVC wire used for this hooking was seized at the spot and witnesses were examined. During investigation of the case it was ascertained that the accused is responsible for hooking in the electric line and

therefore charge sheet is filed against him warranting his 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.27.8.09 at Patharagadia, the accused was found consuming electricity unauthorziedly in his shop by hooking process from LT line ?

5. Prosecution examined 4 witnesses out of which P.W.1 is Asst. Manager, Commerce, P.W.2 is Jr. Artisan, P.W.3 is the lineman and P.W.4 is the IO of the case.

6. PW.1 in his evidence said that on the date of checking he found the accused was unauthorziedly consuming electricity by hooking to his stationary shop. On the other hand, P.W.2 who accompanied P.W.1 said that accused took illegal connection of electricity to his betel shop. On the other hand, the IO said it was a wooden cabin. P.W.3 said tht it was a grocery shop. Taking into the contradiction between all the four witnesses, learned defence counsel argued that no document has been seized or no independent witness from the locality has been examined by the prosecution to show that the case house belongs to the accused. Furthermore, the contradictory evidence in the mouth of the prosecution witnesses regarding the nature of the shop also makes the case doubtful. Further, it is found that by the time of checking about 20 to 25 persons were present at the spot, but none of them has been examined to establish the case against the accused. P.W.3 in his evidence said that although he signed on the seizure list he cannot say its contents only on the direction of SDO, Electrical, he signed on the seizure list. The witnesses present at the spot were also not examined by the police regarding ownership of the house as stated by P.W.3 in his cross examination. Thus,the case becomes doubtful in nature. It is further argued that there is no material on record that the accused hooked the LT line with the PVC wire and is responsible for consumption of electricity illegally causing loss to the State. Only because the accused was present at the time of detection of the case, it cannot be said that he is the author of the crime.

7. 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.

8. 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 10th day of December, 2013

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:- Swapna Sarita Mishra

P.W.2:- Antaryami Das

P.W.3:- Tusar Ranjan Sahu

P.W.4:-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

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.

