

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

PRESENT:-

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

T.R No. 90 of 2007

Date of argument- 27.11.13
Date of Judgment- 07.12.13

S t a t e
Vrs.

1. Md. Gulam, aged about 45 years
S/o Sk. Kasimudin, resident of: Gaba Basta
PS: Sadar, Dist; Cuttack
2. Bhalu @ Bhagabata Swain, aged about 48 years
S/o: Late Madhaba Swain, resident of Vill: Dasapur
PS: Baliana, Dist: Khurda

....Accused persons

Advocate for the prosecution-

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

Advocate for Accused

Shri S. Patra, Advocate

Offence Under Sections:-

135 of Electricity Act.

J U D G M E N T

The accused persons stand charged for the offence u/s 135 of Electricity Act 2003.

2. Prosecution has started against the accused Md. Gulam on detection of illegal use of electricity in a tailoring shop at Karadasasana during inspection of Asst. Engineer, Electrical on dtd. 20.12.06. FIR having been filed by the Asst. Engineer, investigation was taken up and it was ascertained that one Bhagabata Swain was the owner of a tailoring shop wherein accused Md. Gulam was working as a tailor. Both of them were availing electricity by hooking from the LT line belonging to CESU. Police also visited the spot, examined the

witnesses, seized the wire used for hooking from the LT line alongwith one stabilizer and electric iron which were used in the tailoring shop. After completion of investigation, charge sheet was submitted against both the accused persons warranting trial u/s 135 of Electricity Act.

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.20.12.06, the accused persons were found unauthorizedly consuming electric energy by hooking process in their tailoring shop from LT line ?

5. Prosecution examined 3 witnesses out of which P.W.1, Asst. Engineer, Electrical and P.W.2 is the lineman. P.W.3 is the IO of the case.

6. P.W.1 in his evidence deposed that on 20.12.06 while working as Asst. Manager, Electrical under Dumduma Electrical Section visited Housing Board Colony and detected the case. He saw accused Gulam has taken electric connection by hooking process. He proved his FIR vide Ext.1 and his signature thereon vide Ext.1/1. After receipt of FIR, one line man namely, Dusasana Mohapatra dehooked the electric line and on arrival of police articles alongwith wire were seized. During his examination, there is nothing in his evidence against the other accused, namely, Bhagabata Swain. P.W.2, the lineman stated that he visited the shop of the accused alongwith the police and removed the hook from the LT line. He also supported the fact of seizure and the seizure list. His cross examination reveals that the case house is a cabin standing over Govt. land. There were some other shops adjacent to the case house. P.W.3, the IO said he examined the witnesses, prepared the seizure list and in his presence the lineman disconnected the hook. In his cross examination, he said that he visited the spot only on the date of inspection and adjacent shop owners have not been cited as witnesses. Although, in the charge sheet it is mentioned that the cabin was standing on a Govt. plot no document has been examined to that effect. This being the evidence available from the side of the prosecution, defence did not adduce any evidence.

7. Learned defence counsel argued that there is absolutely no material on

record either from the mouth of the electrical staff or from the mouth of the IO that Bhagabata Swain is the owner of the shop and that he had any role in hooking with the LT line. As regards material against Md. Gulam, it is also urged that there is no evidence on record that this accused hooked the LT line and was consuming electricity in the shop of accused Bhagabata. When it is admitted case of prosecution that Md. Gulam was working in the shop of Bhagabata, it is not expected that Gulam hooked the wire and is responsible for unauthorised use of electricity. None examination of nearby witnesses has also raised doubt regarding the culpability of accused persons in the case. As there is no evidence at all in relation to hooking of LT line it cannot be said who is responsible for the same. Merely, because Gulam was present in the shop, it cannot be said that he was consuming electricity in the shop of Bhagabata.

8. In the result, both the accused persons are found not guilty for the offence u/s 135 of Electricity Act, 2003 and are acquitted thereof U/s.248 of Code of Criminal Procedure. They be set at liberty forthwith. Their bail bonds be canceled 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 7th 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:- Bijay Kumar Mishra

P.W.2:- Dusasana Mohapatra

P.W.3:- Pramod Kumar Jaisingh

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.2

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

Ext.3: Spot Map

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

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

List of exhibits marked for the defence

Nil

Special Judge, Electricity, Bhubaneswar.