

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.12 OF 2015

The State of Maharashtra .. Applicant
Versus
Dharamji Laxman Mokul .. Respondent

Mrs.Anamika Malhotra, APP for the applicant State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 17th APRIL, 2015

P.C. :

1 The respondent was prosecuted on the allegation of having committed offences punishable under section 39 and 44 of the Indian Electricity Act, 1910. The learned Addl. Sessions Judge, after holding a trial, found him not guilty and passed an order of acquittal. Being aggrieved by the said order of acquittal, the State of Maharashtra, is by the present application, seeking leave to Appeal, therefrom.

2 I have heard Mrs.Anamika Malhotra, learned APP for the State in support of the application. I have gone through the impugned judgment, and the notes of evidence of PW no.2 Prakash Marathe, which have been made available to me by her.

3 The prosecution case was that Prakash Marathe (PW2), a Junior Engineer in the MSEB, went to village Johe for

verification of electric bills, and that, during that visit, Prakash Marathe and his staff went to the house of the respondent. They learnt that the respondent was not having any electric meter, and that he had been committing theft of electricity with the help of a hook from main L.T. Line.

4 During the trial, the prosecution examined only two witnesses. The first one was Avinash Patil - a panch, and second, as aforesaid, was Prakash Marathe. A number of other witnesses were cited by the prosecution, but inspite of repeated chances to adduce their evidence, granted by the trial court, none of them was examined during the trial. This is found in paragraph no.8 of the impugned judgment, and is not under challenge.

5 The learned Judge observed that the prosecution had not shown that the house to which electricity supply was illegally taken, belonged to the respondent. The trial court referred to the admission elicited from PW 2 Prakash Marathe, that he had not made any inquiries regarding the ownership of the house, and that, he did not know in whose name the house was standing, at the material time.

6 The panch witness did not support the prosecution. On the contrary, he stated that his signature had been obtained by the police at the police station on a blank paper, and he had not gone to the village of the respondent, at all. The learned Judge in this connection, observed that the prosecution did not examine the other panch in respect of the panchnama.

7 The order of acquittal, as passed by the learned Judge
does not seem to be suffering from any infirmity or illegality.

8 There is no merit in the application.

9 Leave refused.

10 Application is rejected.

(ABHAY M.THIPSAY, J)