

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

206

CRA-S-No.1248-SB of 2015

Decided on : 08.05.2015

Dakshin Haryana Bijli Vitran Nigam Limited

... Appellant

Versus

Sant Lal and another

... Respondent

CORAM : HON'BLE MR.JUSTICE HARI PAL VERMA

Present : Mr.Pardeep Singh Poonia, Advocate
for the appellant.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Hari Pal Verma, J. (Oral)

The appellant, *Dakshin Haryana Bijli Vitran Nigam Limited* has filed the present appeal challenging the judgment dated 30.10.2014 passed by Special Judge, Hisar, wherein while extending the benefit of doubt, the accused was acquitted of the charge levelled against him.

Briefly stated FIR No.20 dated 1.6.2012 under Section 135 of the Indian Electricity Act, 2003 (hereinafter referred to as the 'Act'), was registered at Police Station Irrigation @ Power, Hisar against the respondents/accused.

As per the case of the prosecution, on 27.04.2012, Shri Manoj Kumar, SDO along with Ishwer Singh JE, Balraj and Sher Singh Lineman and Pat Ram ALM raided the premises of accused in

village Mangali Surtia and found that the accused was enjoying direct supply from LT Pole, by putting Private wire, causing loss of Rs.2,52,630/- to DHBVN Limited. On the basis of said raid, LLI Report and CD regarding theft of electricity energy was prepared. The accused was issued a notice, Ex.P2 and on the basis of an application, Ex.P3 moved by SDO, M&P, DHBVNL, Hisar, the FIR was registered against the accused. The challan under Section 173 Cr.P.C. was presented and copy thereof was supplied to the accused, as provided under Section 207, Cr.P.C.

The trial court framed the charge against the accused under Section 135 of the Act on 03.10.2012, to which accused pleaded not guilty and claimed trial.

Prosecution has produced as many as four witnesses in support of their evidence.

PW-1-Manoj Kumar SDO while appearing in the witness box has testified that on 27.04.2012, he along with Ishwer Singh JE, Balraj and Sher Singh Lineman and Pat Ram ALM raided the premises of accused in village Mangali Surtia and found that direct supply is being taken by the accused from LT Pole, by putting PVC wire and that he prepared the CD at the spot and removed the wire. He also prepared LLI report Ex.P1. In this manner, accused had committed theft of Rs.2,02,630/- to DHBVN Ltd. plus assessment charges Rs.15,000/- He also issued notice Ex.P2 to him and sent memo Ex.P3 for registration of the case.

PW-2, Balraj who is member of the raiding party has also

supported the version of PW1 on all the material aspects of the case. PW-3-Inspector Dinesh Kumar has deposed about the preparation of report under Section 173, Cr.P.C. against the accused. PW-4-ASI, Gurdev Singh who was the investigating officer of the case has deposed about the various steps of investigation conducted by him. He also testified that on receipt of complaint Ex.P3, FIR Ex.P6 was registered. Thereafter, the prosecution closed the evidence by making separate statement dated 10.04.2013.

Similarly, statement of accused under Section 313, Cr.P.C. was recorded wherein he has denied all the incriminating circumstances appearing against him and pleaded his false implication.

Learned trial court on the basis of available material on record found that the alleged raid was conducted on 27.04.2012 whereas the FIR in this case was registered on 1.6.2012 and there is no explanation for such an inordinate delay in the registration of the FIR. Similarly, the prosecution has not brought on record as to why the alleged PVC removed at the time of raid of theft of electricity, has not been sealed while taking it in possession. All these circumstances create doubt in the prosecution story and even spot proceedings, which makes the entire case highly doubtful. In this manner, the trial court acquitted the accused of the charge levelled against him.

I have heard learned counsel for the appellant.

Mr.Pardeep Singh Poonia, learned counsel for the

appellant has argued that the accused was found taking direct supply by using PVC wire with direct LT Pole and the said episode was recorded in the CD. He has further submitted that the team headed by Manoj Kumar, SDO has raided the premises of the accused on 27.04.2012 and has found the theft of electricity by the accused. Since the team consisting of officials of the board, their integrity cannot be doubted. He further submitted that though the raid was conducted on 27.04.2012 but FIR was registered on 1.6.2012 and it cannot be said that it is an inordinate delay.

Considering the fact that raid was conducted on 27.04.2012 but the FIR was registered on 1.6.2012, there is no plausible reason forthcoming to explain this inordinate delay in lodging of the FIR. Similarly, the prosecution has not brought on record as to why the alleged PVC removed at the time of raid of theft of electricity, has not been sealed while taking into possession which creates doubt in the prosecution story and even spot proceedings. In this manner, the prosecution has failed to prove its case beyond all probabilities.

Accordingly, finding no merit in the appeal, the same is hereby dismissed.

[Hari Pal Verma]
Judge

08.05.2015
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