

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 892 of 2014**

- Rajendra Prasad Agrawal S/o Late Shri Kundan Lal Agrawal Aged About 74 Years M/s Jai Ambe Rice Mill, Kurudm P.S. Kurud, Distt-Dhamtari (C.G.)

---- Applicant**Versus**

- The State Of Chhattisgarh Through- The Assistant Engineer (Electricity Protection) And Assistant Electricity Inspector, C.G. State Sub-Division In Front Of P.H.E. Office, Rudri Road Dhamtari, Distt-Dhamtari C.G.

---- Non-applicant

For Applicant	:	Mr. S.C. Verma, Advocate
For Non-applicant/State:		Mr. OP Sahu, Government Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****05/09/2016**

1. Shri O.P. sahu Govt. Advocate submits that he has specific instruction not to file additional reply and he is ready to argue the case finally.
2. The present petition has been filed by the applicant assailing the framing of charge dated 13/11/2014 in Special Criminal Case No. 17/2014 pending before the Court of Special Judge, Electricity Act, Dhamtari (C.G.)
3. The relevant fact for the adjudication of the present case is that on 07/11/2012 at around 12.30 p.m. at the premises of M/s Jai Ambe

Rice Mill, Kurud, District Dhamtari one Jitendra Kumar Jain had sent his Truck along with Driver Devi Prasad Thakur and three other labourers Kamlesh Thakur, Mahendra Kumar Markandey and deceased in the present case Virendra Kumar Sahu for lifting of the ash which was lying in the Rice Mill of the present applicant. It is said that in the course of loading of the ash in the truck belonging to Jitendra Kumar Jain the labour i.e. the deceased Virendra Kumar Sahu is said to have with a stick in his hand tried to lift the electricity line which was crossing over the truck and in the course electricity line slipped from the stick and he came in contact with the wire which had leakage and on account of which he sustained burn injuries and succumbed to the said injuries later.

4. Subsequently on a report having been lodged and investigation conducted an offence under the provisions of Central Electricity Authority Regulation 2010 as well as under the provisions of Indian Electricity Act, 2003 was registered. Later vide impugned order dated 13/11/2014 charges were framed against the present applicant wherein the offence under Rules 12 and 13(4) of the Central Electricity Authority Regulation, 2010 read with Section 146 of the Electricity Act was framed against the present applicant. It is this framing of charge which is under challenge in the present application.
5. Counsel for the applicant assailing the said framing of charge submits that a plain reading of the record by itself without any addition or subtraction shows that there is nothing in record which

would clearly reflect that such offence has been committed by the present applicant. He submits that the incident is not disputed but the role of the present applicant cannot be said to have been there in the occurrence of the incident. According to the counsel for the applicant it is case where the deceased of his own without any instructions from any authority had tried to tamper with the electricity line knowing fully that it is a live electricity line he fiddled with the electricity line and the accident occurred. He further submits that before framing of charge the Court below also should have applied its mind to the extent of verifying the fact as to the active role played by the present applicant in the commission of the said alleged offence. According to counsel for the applicant the present applicant was not available on the site at the time of incident, he further submits that there was proper height maintained for ensuring safety of the human being and animal etc. He further submits that the applicant has not granted any instruction whatsoever directing the deceased for lifting the wire with the aid of stick during the course of the loading. In absence of any such material available in the charge-sheet as well as before the Court below at the time of framing of charge the charges framed against the present applicant is not sustainable and deserves to be set-aside and quashed.

6. Shri O.P. Sahu, Govt. Advocate opposing the petition submits that there is a clear violation of Rules 12 and 13(4) of the Central Electricity Authority Regulation 2010. He further submits that the applicant had not taken proper safety measures which he was

otherwise required giving rise to the said accident and therefore he has been rightly charged for the offence under Rules 12 and 13(4) of the Central Electricity Authority Regulation, 2010. Learned State counsel submits that applicant himself has admitted the fact that he was the owner of the premises and he had permitted Jitendra Kumar Jain for lifting the ash from the rice mill, therefore, it can be said that under his instruction only the loading was being done which resulted in the accident and therefore he is liable to be charged and the charges framed against him are therefore proper and legal.

7. Learned State counsel however was not able to give any proper explanation to the initial inquiry report submitted by the Assistant Engineer S.L. Sahu, whereby it has been held that it was under the instruction of the truck driver at whose instance the three workers were loading the truck and that in between the deceased with aid of a stick tried to lift the electricity line so that while loading there should not be any obstacle in the process of ash being dumped in the truck however the same slipped from the stick and came in touch with the deceased striking him with the live electricity line causing injury to which he later succumbed. In addition to this the State counsel submits that he has nothing more to add.
8. Having considered the rival contention put forth on either side and having perused the record what stands admitted is that on 07/11/2012 there was an accident that took place in the premises of M/s Jai Ambe Rice Mill, Kurud belonging to the present applicant. It is also admitted position that the deceased was sent by the owner of

the truck Jitendra Kumar Jain in company of two more labours Kamlesh Thakur and Mahendra Kumar Markandey and the driver of the truck Devi Prasad Thakur. Another admitted fact is that the present applicant was not available at the site at the time of incident. Further perusal of the spot map Ex. P/6 also clearly reflects that the heights of the two poles between which the said wire was lying was almost more than 20 ft. high and the place where the accident had occurred was at the center of the two poles where the height was also 15 ft. high. Further from the evidence it is also reflected that the cable wires were duly insulated, but because of the fiddling of the said insulated wire by the deceased with the aid of stick the insulation tape got removed and then thereafter when the wire slipped from the stick and dropped down on the deceased he came into contact with said wire resulting in burn injury of which later on he succumbed.

9. From the above admitted factual position of the case what is not disputed by either parties clearly is that the applicant happens to be the owner of the rice mill. He was not responsible in any manner for the occurrence of the said accident. So far as causing of accident is concerned, so as to bring home the offence under Section 12 as well as 13(4) of the Central Electricity Authority Regulation, 2010 what is required is the prosecution to clearly establish from the material collected from the spot to show that there has been a deliberate act on part of the applicant or for that matter accused leaving the electricity line in a state which in normal course can lead to an

accident endangering the human life, animals and property. Further in the instant case the place where the deceased came into contact with the electricity wire from spot map Ex. P/6 it clearly reflects that there was height of 15 ft. high which in the normal course would not be at the reach of human being. The driver of the said truck Devi Prasad Thakur parked it just beneath said wire whereas it could have been parked at a different location seeing the overhead wire passing through. Further what is also reflected from the inquiry report of S.L. Sahu, Assistant Engineer is that he has specifically stated that insulation tape got peeled off because of the repeated striking of the same by a stick with which the deceased was trying to lift the electricity wire and on account of which when the wire slipped on the deceased he came in contact of live wire resulting in the accident for which the present applicant cannot be held liable either directly or indirectly. The fact that the wire was insulated with tape is sufficient to hold that the wire was insulated with tape is sufficient to hold he had taken all possible precautions and safety measures.

10. Further the inquiry report at any place does not reflect that in the course of inquiry, the inquiry officer found that it was at the behest of the present applicant the accident has occurred. Thereby prima facie from the material available on record and also taking into consideration that the State also has filed only a one page objection as reply without any substantive piece of evidence or contention with which it could be said that present applicant was liable for the accident. Thus, this Court has no hesitation to reach to the

conclusion that the charges framed against the present applicant is without any cogent material available in the charge-sheet. The prosecution has miserably failed to establish how the applicant has violated the Rule for which the charge has been framed against him. Neither has the State counsel been able to justify the charges levelled against him in spite of repeated opportunity being granted to the State counsel. The State counsel inspite of taking repeated opportunities has also failed to establish before this Court as to what is the over act on the part of present applicant or negligence on part of the applicant on account of which the accident took place.

11. In the opinion of this Court framing of charge against the present applicant whatsoever for the offence under Rules 12 and 13(4) of the Central Electricity Authority Regulation, 2010 read with Section 146 of the Indian Electricity Act is totally unsustainable and the same deserves to be and accordingly set-aside.

12. The applicant is discharged from the said Sections for which he has been charged.

13. Accordingly, Revision Petition stands allowed.

Sd/-

(P. Sam Koshy)
JUDGE