

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 563 OF 2009

The State of Chhattisgarh, through District Magistrate, Durg (C.G.)

... Appellant

Versus

Ramswaroop, S/o Ramkirshna Yadav, aged about 48 years, By occupation-
Agriculturist, R/o Bundeli, P.S. Dhamdha, District Durg (C.G.)

... Respondent

For Appellant-State : Mr. Ashish Shukla, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

05/12/2016

1. The present appeal has been preferred by the Appellant-State challenging the judgment dated 30.4.2009 passed by the Special Judge (Electricity Act), Durg in Special Case No. 32 of 2007.

2. Vide impugned judgment dated 30.4.2009, the Court below after finding the Respondent, Ramswraoop, guilty of having committed the offence under Section 135 of the Electricity Act, 2003 ('the Act' in short) and under Section 304-A of Indian Penal Code ('IPC' in short), sentenced him to undergo imprisonment for the period already undergone, i.e., 11 days, and also imposed fine of Rs.25,000/- with default sentence of 6 months S.I. in case if the fine amount is not deposited by him.

3. Case in brief is that on 1.9.2007, one Gayatri Bai W/o Samaru and PW-3 Anjani Bai had gone to the field of the Respondent and while entering the said field of the Respondent they came in contact with a GI wire which had come in contact with a live electricity wire which was taken illegally by the Respondent for irrigation purposes. As a result of the same, Gayatri Bai got electrocuted. The matter was immediately reported to the police and Crime No. 191 of 2007 was registered for the offence under Section 304-A of IPC against the Respondent. The matter was later on put to trial before

the Special Judge (Electricity Act), Durg where the case was registered as Special Case No. 32 of 2007.

4. During the trial, the prosecution examined six witnesses and the defence in turn examined two witnesses, in their support. The Court below finally vide impugned judgment 30.4.2009 reached to the conclusion that the Respondent in fact was found guilty of having committed the offence under Section 135 of the Act as also under Section 304-A of IPC. Accordingly, after holding the Respondent guilty for the said offences the Court below ordered for sentence to the Respondent to the period already undergone by him, i.e., 11 days, and also ordered for payment of fine Rs. 25,000/- with default stipulation. It is this judgment which is under challenge in the present appeal.

5. Learned Counsel for the State submits that the present appeal has been filed challenging the impugned judgment, for inadequate sentence given by the Court below. According to the State Counsel, taking into consideration the evidence which has come on record there was no reason why the Court below should not have considered for grant of imprisonment for a longer period than the period already undergone. The State Counsel refers to the evidence rendered on behalf of the prosecution particularly, that of PW-3 Anjani Bai who had accompanied the deceased Gayatri Bai at the time of the incident. The Counsel also refers to the deposition of PW-2 Madandas, a Kotwar of the Village, who was the person first intimated about the incident. According to the State Counsel, the deposition of both these witnesses and in addition the evidence of PW-1 Avinash Chouhan, the Assistant Engineer in the Electricity Board, who had corroborated the case of the prosecution to the extent of the Respondent having illegally taken the electricity connection for irrigation purposes to his field and which had come to the contact with the GI wire leading to the occurrence of the

incident establishes the case of the prosecution of there being negligence on the part of the Respondent in extending live electricity wire around the field knowingly fully well that the same could come in contact of any human being or, for that matter, even animals and which could be fatal. Thus, the charge against the Respondent of committing negligence which led to the death of the deceased Gayatri Bai stands proved beyond reasonable doubt and under the said circumstances the sentence of 11 days is too short a period and which should definitely have been more and therefore the present appeal has been filed seeking for enhancement of the sentence imposed upon the Respondent.

6. Having considered the contentions put forth by the State Counsel and on perusal of the record what clearly reflects is the fact that though the present appeal was filed in the year 2009 and notice was issued to the Respondent on 10.8.2009 but till date the State has not been able to serve notice upon the Respondent and it is still unserved on the Respondent. Further, if we look into the merits of the case also what clearly reflects is the fact that the Respondent in the instant case has admittedly to have put barbed GI wire around his field of sugarcane so as to protect the sugarcane plants from being attacked by the wild boar and other such animals and for the irrigation purpose the Respondent had illegally taken connection directly from the electricity pole near the field. It has also come in the course of evidence that it appears that the illegally taken electricity connection came in contact with the GI wire and as such there was electricity passing through the GI wire put around the field of the Respondent. It is also undisputed that the incident in the present case occurred when the deceased Gayatri Bai and PW-3 Anjani Bai had tried to enter into the fields of the Respondent when they came in contact with the live electricity wire.

7. True it is that from the evidence which has come on record that there was certain element of negligence on the part of the present Respondent to the extent of firstly taking illegal electricity connection to his field and subsequently not taking proper care of the illegally taken connection inasmuch as the said illegally taken connection came in contact with the GI wire put around the fields resulting in electricity passing through it. However, the prosecution in the instant case has failed to prove the fact that the Respondent in the instant case had deliberately put the said barbed wire and connected it illegally with the electricity so as to avoid any human being entering into his fields. Neither has there any evidence to show that the Respondent put the electricity wire and got it connected to the GI wire with an object of keeping the wild boar away from his fields. On the contrary, the husband of the deceased has himself been examined as a defence witness and he has admitted the fact that the matter has been amicably resolved between the parties and the Respondent herein has also paid an amount of Rs.1.5 Lakh to the husband of the deceased Gayatri Bai as compensation and damages. It was also not clear from the evidence of the prosecution that the deceased Gayatri Bai was working in the fields of the Respondent or not. Further, the Court below also had taken into consideration the fact that the Respondent herein has already remained in custody for a period of 11 days.

8. Taking into consideration all these facts and circumstances of the case, if the Court below has reduced the sentence to the period already undergone and has also imposed a fine of Rs.25,000/- in addition to the fact that as per the agreement the Respondent had already paid Rs.1.5 Lakh to the husband of the deceased, this Court does not find any illegality or infirmity on the part of the Court below in reaching to the conclusion of

sentencing the Respondent for the period already undergone, i.e., for 11 days.

9. The present appeal being devoid of merits deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

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