

**HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL APPEAL No.16 of 2008**

**JUDGMENT:**

This criminal appeal is preferred by the appellants/A-4 & A-5 by invoking the provision under Section 374 (2) of the Code of Criminal Procedure being aggrieved by the judgment, dated 31.12.2007, rendered in C.C.No.5 of 2007, by the I Additional Sessions Judge, Karimnagar, whereby and whereunder the learned Sessions Judge found A-4 & A-5 guilty for the offence under Section 137 of the Electricity Act, 2003, and sentenced them to undergo Rigorous Imprisonment for a period of one (1) year and to pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for a period of 15 days.

2. The case of the prosecution in brief is that on 21.09.2006 at 10.30 hours, P.W.1, the Additional Assistant Engineer, Operation NPDCL at Mutharam Mandal came to the police station and lodged written report stating that three distribution transformers copper winding coils with core plates approximately weighing 90 kgs., were stolen by some unknown persons from Ramaiahpalli Village and old Ladnapur villages of Mutharam Mandal, SS Nos.8 and 9 of Ramaiahpalli Village and SS No.1 of old Ladnapur Village on 19.09.2006 at night hours and on the next day they observed oil poured on the ground at distribution transformers plinths. The stolen copper winding coils with core plates are worth of Rs.36,000/-. Hence, the complaint.

3. After taking cognizance of the charge sheet filed by the Investigating Agency, the Court below took the case on file. On appearance of the appellants/A-4 & A-5 before the Court, the charge under Section 137 of the Electricity Act, 2003, was framed, read over and explained to them in Telugu, for which, they pleaded not guilty and claimed for trial.

4. To substantiate its case, the prosecution got examined

PWs.1 to 11 and marked Exs.P-1 to P-17 besides MOs.1 and 2. On behalf of defence, no oral or documentary evidence was adduced.

5. After closure of the prosecution evidence, the appellants/A-4 & A-5 were examined under Section 313 Cr.P.C., for the incriminating evidence appearing against them, for which they denied the same.

6. After appreciating the oral and documentary evidence available on record, the learned trial Judge found the appellants/A-4 & A-5 guilty of the offence under Section 137 of the Electricity Act, 2003, and sentenced them as stated above. Aggrieved over the same, the present appeal is preferred by the appellants/A-4 & A-5.

7. Heard the learned counsel for the appellants as well as the learned Public Prosecutor and perused the material available on record.

8. When this Court pointed out that there are no merits in the appeal, learned counsel for the appellants/A-4 & A-5 confined his arguments only to the quantum of sentence, and prayed that the appellants/A-4 & A-5 are very poor and they also suffered for substantial period and the property recovered is also not wire, but a copper winding coil and a lenient view may be taken.

9. Considering the facts and circumstances of the case, this Court is inclined to reduce the sentence of imprisonment for the offence under Section 137 of the Electricity Act, 2003, imposed by the trial Court to that of the period, which the appellants/A-4 & A-5 have already undergone.

10. In the result, the conviction recorded by the I Additional Sessions Judge, at Karimnagar, against the appellants/A-4 & A-5 for the offence under Section 137 of the Electricity Act, 2003, is confirmed. But, however, the sentence of imprisonment imposed by the learned trial Judge under the above head is reduced to the period already undergone by the appellants/A-4 & A-5. The sentence of fine, imposed by the Court below, is not interfered with.

11. Accordingly, the Criminal Appeal is partly allowed.

Miscellaneous applications, if any pending in this appeal, shall stand closed.

**RAJA ELANGO, J**

Date: 2<sup>nd</sup> August, 2016

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