

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 640 of 2009

Dwarika Prasad Rajak, S/o Late Bhaagbali Rajak, aged about 52 years, R/o Village Pipartarari, P.S. Kota, District Bilaspur (CG)

---- Appellants

Versus

Chhattisgarh Electricity Board, through Junior Engineer,
Chhattisgarh State Electricity Distribution Company Center Kota,
District Bilaspur (CG)

---- Respondent

For Appellant : Mrs. Prabha Sharma, Advocate.

For Respondent : Mr. Abhishek Sinha, Advocate.

Hon'ble Smt. Justice Vimla Singh Kapoor

Judgment On Board

19/06/2019

Facts of the case in brief are that on 06.01.2009 the team of Electricity Department comprising of Bhushan Lal Verma (PW-1), Ku. Shikha Khande (PW-2) and K.N. Singh (PW-3) made a surprise inspection in the premises of the accused/appellant where it was found that after the electric meter installed therein was snapped, he had taken a direct connection by directly hooking from adjacent electricity pole and thus dishonestly committed theft of electricity worth Rs.15,018/-. Panchnama (Ex.P-1) to this effect was drawn by Ku. Shikha Khande (PW -2), spot map (Ex.P-2) was prepared and the wire used in taking the illegal connection was seized. Though by Ex.-P-3 the accused/appellant has taken a defence that the electric meter installed in his premises was disconnected by himself but he could not produce any document as to when and by whom it was done. Rather the stand taken by Electricity Department that when the accused/appellant failed to pay the electricity bill amounting to Rs.26,966/- the electric meter was disconnected and thereafter he took illegal connection by hooking from the nearby pole, is found to be trustworthy. Thereafter on 07.01.2009 PW-2 – the Sub Engineer of the Department made a report to the concerned Police Station about this act

of the accused/appellant on the basis of which an offence under Section 135 of the Electricity Act was registered against him. By the judgment impugned dated 24.08.2009 the learned Court below found the accused/appellant guilty under the said Section and imposed the punishment of simple imprisonment for 3 months. Hence, this appeal.

2. Counsel for the appellant submits that the Court below has fallen in a serious error of law in appreciating the evidence in its proper perspective and held him guilty only on the basis of the witnesses of the Department.

3. Counsel for the respondent/Electricity Board however supports the judgment impugned and submits that after the electric meter was disconnected for non payment of bill worth Rs.29,966/-, the accused/appellant again took an illegal connection from the nearby pole and consumed the electricity worth Rs.15,018/- and thus committed theft dishonestly.

4. Heard counsel for the parties and perused the documents on record including the evidence of the witnesses. Though the appellant claims to have removed the electric meter of his own but he could not produce any material to show the same. On the contrary, the evidence of PW-1, PW-2 and PW-3 discloses that when he failed to deposit the electricity bill, the electric connection was snapped but even thereafter the accused/appellant took an illegal connection from the electric pole and committed a dishonest theft of electricity amounting to Rs.15,018/-. In sum and substance, he first caused loss of Rs.26,966/- by not paying the bill and then of Rs.15,018/- by illegally consuming the electricity hatching the direct connection from the pole. May be, the witnesses happen to be from the Electricity Department but looking to the consistency maintained by them, there is no reason for this Court to discard their testimony.

5. In view of the aforesaid factual analysis made in the light of the evidence of the witnesses, the conclusion drawn by the Court below

holding the accused/appellant guilty under Section 135 of the Electricity Act and imposing the simple imprisonment for 3 months on him does not suffer from any illegality and, therefore, the judgment impugned is hereby maintained by dismissing the appeal. The appellant be dispatched to prison to undergo the sentence imposed on him by the Court below.

6. Appeal dismissed.

Sd/-
(Vimla Singh Kapoor)
Judge