

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 397 of 2008

Sarvjeet Singh S/o. Shri Gyan Singh, Aged about 20 years, R/o. Sunder Nagar, H. No. 31-A, Supela, Police Station Supela, Tahsil and District Durg (C.G.) ---- **Applicant**

Versus

State of Chhattisgarh, Through District Magistrate, Durg District Durg (C.G.) ---- **Respondent**

For Applicant : Mrs. Indira Tripathi, Advocate

For Respondent : Mr. Raghvendra Verma, Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 25.04.2019

By the judgment under challenge passed on 18.06.2008 by Additional Sessions Judge (FTC) Durg, in Criminal Appeal No. 513/2003, affirming the judgment of conviction and order of sentence dated 10.11.2003 passed by the Judicial Magistrate First Class, Durg in Criminal Case No. 1467/2002, convicting the accused/applicant under Section 39 of the Electricity Act and sentencing him to undergo RI for 1 year and to pay fine of Rs. 1000/- plus default stipulation.

2. The prosecution story in brief is that on 04.10.2000 Assistant Engineer, Electricity Board Chhaoni inspected the premises of the applicant namely M/s. Arun Enterprises in the presence of director of firm Sarvjeet Singh under Ex.P-3, during search, he found that the seal of the meter box was tampered and the seal number which was affixed on the meter was not readable. The applicant committed theft of electricity and after assessment it was found that because of the act of the applicant

Electricity Department suffered loss of Rs. 3,44,000/-. Spot inspection Panchanama (Ex.P.1) was prepared by the Investigating Officer. A written complaint was (Ex.P-11) was made in the Police Station Jamul and on the basis of which, FIR (Ex.P-12) was registered in against the applicant. After completion of investigation, charge sheet was filed against him under Section 39 of the Electricity Act and charge was framed accordingly.

3. Counsel for the applicant/accused does not assail the conviction part of the judgment impugned and his only request is that looking to the incident being quite old and also considering the fact that he has remained under detention of 10 days, the jail sentence imposed on him may be reduced to the period already undergone and thereby protect their well settled family life from being up-rooted at this stage.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. On perusal of the judgment, which has been brought before this Court, it is evidently clear that on the date of inspection i.e. on 04.10.2000, inspection team, inspected the premises of the applicant wherein it was found that the seal of the meter box was broken and the number which has been affixed on the meter was not readable, thereafter the squad team opened the meter and found that the left and right side of the box was tampered and the meter was not functional. Panchanama (Ex.P-1) was prepared by PW-1 in the presence of the witnesses under (Ex.P-

2) and the same was signed by the applicant. Inspection report (Ex.P-2) was prepared in which it was stated that the meter was tampered. After inspection made in the premises, consent letter Ex.P-5 was signed by the applicant and seizure memo under Ex.P-7 and Ex.P-8 were prepared by PW-3. Therefore, in the light of evidence of the independent witnesses who have also supported the case of the prosecution and considering the fact that the applicant has committed theft of electricity by tampering the meter and thereby caused a huge monetary loss to the Electricity Department. In these circumstances, the findings recorded by the Magistrate holding the applicant guilty under Section 39 of the Electricity Act do not suffer from any legal or factual infirmity so as to call for any interference in the revision, therefore, it is hereby maintained.

7. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 19 years ago and the applicant has already remained in jail for a period of 10 days and deposited fine amount imposed on him, in my opinion, no useful purpose is going to be served in again sending him to jail. Accordingly, his sentence is reduced to the period already undergone by him.

8. With the above, the revision stands allowed in part

Sd/-

(Vimla Singh Kapoor)

JUDGE