

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 142 of 2018**

Hiralal Yadav, S/o - Vishwnath Yadav, Aged about - 50 Years,
R/o-Village Kurkuriya, Thana – Bagicha, District – Jashpur, (C.G.)

---- **Petitioner**

Versus

1. State of Chhattisgarh, Through: District Magistrate - Jashpur,
District - Jashpur (C.G.)
2. Alok Yadav, S/o - Devnarayan Yadav, Aged about - 26 Years, R/o-
Village - Kurkuriya, Thana - Bagicha, District - Jashpur (C.G.)
3. Devmun Yadav, S/o - Dashrath Yadav, Aged about - 18 Years,
R/o - Village - Kurkuriya, Thana - Bagicha, District - Jashpur
(C.G.)

---- **Respondents**

For Petitioner : Shri Akhand Pratap, Advocate.

For State/Respondent No. 1 : Shri Afroj Khan, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/06/2019

1. Heard on application filed under Section 378(4) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
2. On due consideration, leave is granted.
3. This appeal is preferred against the judgment dated 8th November, 2017 passed by Special Judge (Electricity Act, 2003), Jashpur, District – Jashpur (C.G.) in Special Case No. 01/2016 wherein the said Court acquitted the both respondents for charge under Section 304-A read with Section 34 of IPC, 1860 and Section 138(b) of Electricity Act, 2003.

4. In the present case, name of the deceased is Omprakash. As per statement of Dr. Mithlesh Minj (PW-2), he died due to electrocution and also sustained head injury due to fall.
5. To substantiate the charge, the prosecution examined as many as 10 witnesses. Devnarayan Yadav (PW-1) is not eyewitness account to the incident, he reached on the spot only when incident already took place. Hiralal (PW-4), Kamalawati (PW-5), Ms. Neha Yadav (PW-6) and Mansay Nagesiya (PW-7). Ms. Neha Yadav (PW-6) is not eyewitness account to the incident, Mansay Nagesiya (PW-7) deposed before the trial court that one person climbed on electric pole and thereafter he found that Omprakash was taken to hospital because of electrocution. This witness has not deposed anything against the respondent that the said respondent had any role in climbing of Omprakash in electric pole. The prosecution was under obligation to establish that any rash or negligent act was committed by the respondent in climbing in question, but no one deposed any role of respondent when deceased Omprakash climbed on electric pole.
6. The trial Court elaborately discussed the entire evidence and recorded finding and involvement of any of the respondents is not established. The respondents have also been charged for offence under Section 138(b) of the Electricity Act, 2003. The provision will apply when anyone involved in unauthorizedly reconnecting meter, indicator or operate any electric line or other work being a property of a licensee when the said electric line work have been cut or disconnected. There is no evidence on record that any of the respondents involved in interference with meter, indicator or

operators or electric line, therefore, there is absolutely no evidence against the respondents to connect them with crime in question. No interference is required with the order passed by the trial Court. It is not a case where respondents should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.

7. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Vasant