

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 180 of 2009

Judgment Reserved on 27.06.2019

Judgment Delivered on 22.11.2019

Kesav Prasad Sao S/o. Jagdish Prasad Sao, Aged about 45 years,
Occupation Agriculturer, R/o. Village Tetla, Police Station Pusaur,
District Raigarh (C.G.)

---- Appellant

Versus

State of Chhattisgarh through Police Station Pusaur, Raigarh District
Raigarh (C.G.)

---- Respondent

For Appellant : Mr. Dashrath Kushwaha, Advocate.
For Respondent : Mr. Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgement

1. The appellant-accused has filed this appeal under Section 374(2) of Cr.PC. against the judgment dated 28.01.2009 passed by the Court of Special Judge (under Electricity Act, 2003) in Special Sessions Trial No. 15 of 2008, convicting the accused/appellant under Section 138(B) of Electricity Act and sentencing him to undergo till rising of the Court and to pay fine of Rs. 10,000/- with default stipulation.

2. Facts of the case in brief are that, the appellant obtained electricity connection from the Electricity Department for domestic purpose vide consumer No. 1001808792. An electricity bill of Rs.

37,872/- was not paid by the appellant on account of which the electricity supply of his house was disconnected. On 26.08.2008 the officers of the Electricity Department conducted inspection/search in premises of the appellant where it was found that appellant was illegally drawing electricity by direct hooking from the LT line and has thus caused theft of electricity. Based on the said inspection, *panchnama* (Ex.P-4), seizure memo (Ex.P-13) and the spot map (Ex.P-6) were prepared in the presence of the witnesses and the damage caused was also assessed at Rs. 12,444/-. The complainant (PW-1) made a written complaint (Ex.P-8) in Police Station, Pusor. Based on which, FIR (Ex.P-10) was lodged against the appellant. After completion of investigation charge sheet was filed under Section 138 (B) of the Electricity Act against the appellant.

3. Learned court below by its judgment dated 28.01.2009 passed in Special Case No. 15/2008 convicted the appellant under Section 138(B) of the Electricity Act, 2003 and sentenced him till rising of the Court and to pay fine of Rs. 10,000/-. Further, the Court below imposed on him a civil liability of Rs. 25,000/- under Section 154 (5) of Electricity Act. Hence, this appeal.

4. Counsel for the appellant submits that the judgment of conviction and order of sentence passed by the Court below is arbitrary, illegal and contrary to the law. He submits that the court below without given any explanation how the civil liabilities was fasten against the appellant. Lastly, he submits that the statements of the witnesses does not help the prosecution, therefore, the appellant may be acquitted of the charges.

5. On the other hand, learned State counsel supported the impugned judgment of conviction and sentence and opposed the arguments advanced by learned counsel for the applicant.

6. On perusal of the judgment, which has been brought before this Court, it is clear that on the date of inspection i.e. on 26.06.2008, inspection team, inspected the premises of the appellant wherein it was found that the appellant was drawing illegal electricity connection by direct hooking from the LT line which was earlier disconnected by the Electricity Department Pusour for non deposit of the electricity bill vide inspection report Ex.P-5. Thereafter, the squad disconnected the wire from the LT line and seized six feet wire of 10 mm from the spot under Ex.P-13. Based on the said inspection, panchnama (Ex.P-4) and the spot map (Ex.P-6) was prepared in the presence of the witnesses and the same was signed by the brother of the appellant as the appellant himself was not available in the house. The damage so caused was assessed at Rs. 12,444/- under Ex.P-7. Statement of independent witness Vidyanand Bhoi (PW-6) was recorded in which he has supported the case of the prosecution stating that he was not aware as to from where the accused/appellant was taking the electricity after it was already disconnected by the squad. He has however, admitted that that the relevant time there was light in the house of the appellant. The evidence clearly establishes the involvement of the accused/appellant where he pilferaged the electricity even after it being disconnected for non-deposit of bill, and thereby caused

monetary loss to the Electricity Department worth Rs. 12,444/-. In these circumstances, the findings recorded by the Court below holding the appellant guilty under Section 138(B) of the Electricity Act do not suffer from any legal or factual infirmity so as to call for any interference in the appeal, therefore, it is hereby maintained.

7. Accordingly, the appeal being without substance is hereby dismissed.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh