

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 468 of 2006

Sharad Kumar Verma, Son of Bisauha Ram Verma, aged about 28 years, residence of village Gujura, P.S. Patan, District Durg, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh through Police Station Patan, District Durg, Chhattisgarh.

---- Respondent

For Applicant	: Shri Praveen Dhurandhar, Advocate
For State/Respondent	: Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

16 /01/2019

The facts leading to the conviction of the accused/applicant by the Courts below under Section 39 of the Electricity Act, indicate that on a surprise check of the hauler mill of the accused/applicant by the officers of the electricity department (PW-1 & PW-2), it was found that he was pilferaging the electricity from the main line for running the hauler mill and thus, he caused a loss of Rs. 20,323/- approximately to the electricity department.

2. On the report Ex. P-6 being lodged the offence was registered, seizure of cable wire was made under Ex. P-4 and after completing the other formalities the *challan* was laid. Learned trial Court found the accused/applicant guilty under Section 39 of the Electricity Act and sentenced him to RI for one year. In appeal the conviction has been maintained but the sentenced has been reduced to RI for six months.

3. Though conviction of the accused/applicant is not being impeached by the counsel for the accused/applicant and he would make a limited

prayer of reduction of sentence to the period already undergone yet this Court has to decide the case on its own merits.

4. The evidence of PW-1 and PW-2 - the officers of the electricity department makes it clear that at the time of surprise check by them, the operator of the hauler mill namely Rajendra pulled off the cable wire from the main line and ran away. As at the relevant time no third person to be examined as independent witness was present, the accused/applicant has been convicted on the basis of statements of PW-1 and PW-2 and other material available on record. Even the accused/applicant did not produce any material to show that these two witnesses were having any ill-will against him and were therefore interested in his false implication. Thus, the evidence of PW-1 and PW-2 cannot be discarded only on the ground that they are the officers of the electricity department itself. Courts below have thus been fully justified in convicting the accused/applicant under Section 39 of the Electricity Act. There is no illegality in the same being in conformity with the material on record. Conviction is thus maintained.

5. Since the accused/applicant has remained in jail for 01 month and 18 days and further that a considerable period of 20 years has been rolled by from the date of commission of the offence, this Court feels it in the interest of justice to reduce the sentence imposed on him to the period already undergone. Order accordingly.

7. Revision is thus allowed in part with the aforesaid.

Sd/-

(Vimla Singh Kapoor)

Judge