

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.1025 of 2019

State of Chhattisgarh through Station House Officer, Police Station
Nandini, District Durg, Chhattisgarh

---- Petitioner

versus

1. Gajendra Prasad Mourya @ Shera, S/o Bhanupratap Mourya, aged about 43 years, Occupation Driver, R/o Shantipara, Camp No.1, Bhilai, District Durg, Chhattisgarh
2. Sanjay Kumar Sahu @ Golu, S/o Pardeshiram, aged about 23 years, Occupation Driver, R/o Jagannathpur, Shankra, District Balod, Chhattisgarh, Presently R/o Mathpara, Jamul, District Durg, Chhattisgarh
3. Omprakash Sao, S/o Mahesh Sao, aged about 28 years, Occupation Driver, R/o Urla, Subhash Chowk, Bendri Road, Raipur, Chhattisgarh
4. Sohan Singh, S/o Late Siyaram Singh, aged about 52 years, Occupation Business, R/o Bada Ashok Nagar, Gudiyari, Raipur, Chhattisgarh

--- Respondents

For Petitioner	:	Shri Anand Verma, Dy. Government Advocate
For Respondents	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

14.8.2019

1. Heard on admission. Perused the impugned judgment and record of the Court below.
2. Vide impugned judgment dated 15.1.2019 passed by the Special Judge (Electricity Act), Durg in Special Criminal (Electricity) Case No.230 of 2015, Respondents Gajendra, Omprakash and Sanjay have been acquitted of the charges under Section 136 of the Electricity Act and Section 3(2)-क of the Lok Sampatti Ke Nuksani Ka Nivaran Adhiniyam and Respondent Sohan has been acquitted of the charge under Section 137 of the Electricity Act.
3. The allegation against Respondents Gajendra, Omprakash and Sanjay is that on 26.4.2015, in Village Malpurikala Khar, they cut

and committed theft of tower angles of Jindal Power Limited, Tamnar, Raigarh worth Rs.90,000/- and the allegation against Respondent Sohan is that on 21.6.2015 and prior to that he received those tower angles. First Information Report (Ex.P3) was lodged against unknown persons on 26.4.2015. From perusal of the record, it reveals that vide seizure memo (Ex.P4, P5 and P6), some articles were seized from Respondents Gajendra, Sanjay and Sohan and vide seizure memo (Ex.P7), some articles were seized from the spot. In this case, there is no eyewitness. Witnesses of recording of memorandum statements and seizures, namely, Dharmendra Kumar Sahu (PW1), Assistant Engineer of Chhattisgarh State Electricity Board and Kanha Sharma (PW4), Assistant Engineer (Trainee) of Jindal Power Limited, Tamnar have also not supported the case of the prosecution and have turned hostile. Investigating Officer Inspector Vinay Singh (PW6) has also admitted the fact that no proceeding for identification of the pieces found from the spot and the articles seized from the Respondents was conducted. From the statement of Kanha Sharma (PW4), it is clear that he is not sure that the seized property was of their company. Therefore, looking to the above evidence adduced by the prosecution, in my considered opinion, the Trial Court has rightly acquitted the Respondents.

4. I find no substance in the instant application for grant of leave to appeal. The application (Cr.M.P.) is, therefore, dismissed at the admission stage itself.

Sd/-
(Arvind Singh Chandel)
Judge