

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 679 of 2007**

- Ramesh Kumar S/o Ludomal aged about 45 years R/o Adesh Colony, Police Station & District Bilaspur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, through the District Magistrate, Korba District- Korba (C.G.)

---- Respondent

For Appellant	:	Shri Awadh Tripathi, Advocate
For Respondent/State	:	Shri Anil Tripathi, PL

Hon'ble Smt. Justice Rajani DubeyOrder On Board**06.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 20/12/2007 passed by the Sessions Judge, Korba, District Korba (C.G.) in Cr. Appeal No. 22/2007 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Korba, District Korba, vide its judgment dated 14/08/2007 in Criminal Case No. 299/2006 for the offence under Section 39 of the Indian Electricity Act and sentenced him to undergo R.I. for 1 year.

2. The prosecution story, in brief, is that the applicant has organized an exhibition of Clothes in association with the Consumer Cooperative Society of Balco employees in the house of Smt. Aruna Kothari after taking it on rent for a week in the Housing Board Colony Balco. On 24/01/2001, T.R. Rajwde, Assistant Engineer. MPSEB/CSEB. Korba had received information to the effect that the accused was stealing electricity by hooking wires at three places directly from the LT. Line for lighting the area where the exhibition was going on. After receiving the

information, T.R. Rajwde, Assistant Engineer rushed to the spot with two other employees of the Board and seized 11 Bulbs of different Watts from the shop of alleged accused. After completion of investigation, charge-sheet was filed and charge was framed under Section 29 of Electricity Act.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 07 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 14.08.2007, learned Judicial Magistrate First Class, has convicted the applicant for the offence under section 39 of the Indian Electricity Act and sentenced him to undergo R.I. for 1 year. This order was appealed by the applicant and in the appeal, learned Appellate Court has confirmed the conviction and sentence the appellant. Hence, the present revision.

5. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2001, and thereby more than 18 years have rolled by since then. He is aged about more than 60 years. The applicant has already remained in jail for about 20 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned counsel for the State has no objection to this preposition.

8. Having gone through the material on record and the evidence of

the witnesses Rajkumar Agrawal (PW-1), Mohammed Yushuf (PW-2), Arun Kumar (PW-3) Amarnath Manikpuri (PW-4), T. R. Rajwade (PW-5), K. B. Singh (PW-6) & Dilaram (PW-7), involvement of the accused/applicant in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellant under Section 39 of Indian Electricity Act.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2001, and further that the appellant had already remained in jail for about 20 days, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him.

**Sd/-
(Rajani Dubey)
JUDGE**