

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 16<sup>th</sup> July, 2018

Decided on: 31<sup>st</sup> May, 2019

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**CRL.A. 75/2018**

MONU SHARMA & ORS

..... Appellants

Represented by: Mr. R.P. Singh, Advocates

versus

STATE (NCT OF DELHI) & ANR

..... Respondent

Represented by: Ms. Ashok Kumar Garg, APP  
for the State with SI Sanjay  
Kumar, PS Harsh Vihar  
Mr. Deepak K. Vijay and Ms.  
Neeru Sharma, Advocate for  
BSES/Respondent No.2

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**MUKTA GUPTA, J.**

1. By this appeal, the appellants lay a challenge to the impugned judgment dated 12<sup>th</sup> December, 2017 whereby they have been convicted for offence punishable under Section 138 of the Electricity Act, 2003 (in short 'the Act') and vide order on sentence dated 18<sup>th</sup> December, 2017 wherein they were directed to undergo simple imprisonment for a period of six months each and to pay a fine of Rs.25,000/- each and in default thereof to undergo simple imprisonment for a period of one month each.

2. Learned Counsel for the appellants submits that Reena Sharma did not disclose her meter number. Furthermore, she was not proved to be an authorized consumer. There is no report of misuse of unauthorized qua

Reena Sharma on record. No photos of tempered meter were taken in the presence of Bhupinder Chaudhary (PW-6) even though the meter was sealed in his presence. There is no conversation on record to prove the appellant's demand of money.

3. Per contra, Learned Counsel for Respondent No.2 submits that the present case has been duly proved by the testimony of Reena Sharma (PW-3).

4. Briefly, the case of the respondent is that on 5<sup>th</sup> May 2005 at about 11:00 A.M., K.L. Arora (PW-2) received a telephone call from Reena Sharma informing him that three boys (appellants herein) near her house were making an offer to slow down the speed of meter in lieu of Rs. 1500-2000/-. Aforesaid information was conveyed to Vijay Aggarwal, Business Manager, who asked Reena Sharma to keep the appellants busy in conversation. Vijay Aggarwal organized a raiding party comprising of Bhupinder Chaudhary, Vinay Bhardwaj, Rakesh Kataria, Rakesh Kumar, Suresh Kumar and N.C. Bhatt. The raiding party reached Flat No. 172, Pocket I, GTB Enclave, Delhi. Bhupinder Chaudhary and Vinay Bharadwaj went inside the house, spoke to the appellants and settled the deal. The deal was finalized for a sum of Rs. 1300/- or 1500/-. One of the appellants removed the meter from the meter board which was installed at ground floor and brought the same into the house of Reena Sharma. Thereafter the appellants started to slow down the meter by using the resistance in the meter. After tampering/slowing down the meter, it was resealed. Consequently, the raiding party apprehended the appellants at the spot. On enquiry, their names were revealed as Sanjay Singh @ Jeet Singh, Naresh Gaur and Monu Sharma. Meter bearing No. 23108975 of make SHP MZ

HPM KHIFA was seized alongwith equipments and material used for tampering the meter which were in a black bag. The black bag contained three small screwdrivers, one medium screwdriver, one big screwdriver, one plier, one wire cutter plier, one red colour wire with bulb holder, two steel chimties, one knife-cutter, one pillar, one white colour plastic small bottle containing some liquid, one clamp meter, two syringes, nails of the small screwdriver, some small screwdrivers with three resistances in a small plastic box and one blue colour plastic electric tape.

5. A written complaint (Ex.PW-6/A) was given by Vijay Aggarwal. On the basis of the aforesaid complaint, FIR no. 150/2005 (Ex.PW-1/A) was registered at PS Dilshad Garden for offence punishable under Section 135 Electricity Act.

6. The investigation of the case was assigned to Insp. Kiran Pal (PW-9). On 30<sup>th</sup> May 2005, he went to the house of Reena Sharma, however, the house was found locked. On 19<sup>th</sup> June 2005, he again visited the house of Reena Sharma and inspected the place of incident and prepared the site plan (Ex.PW-9/B) at the instance of Reena Sharma. During the course of investigation, he recorded the statement of Reena Sharma and officials of BSES namely Rakesh Kumar Kataria, Suresh Kumar, Rakesh Kumar and K.L. Arora under Section 161 Cr.P.C. Search for the appellants was made however they could not be found.

7. On 2<sup>nd</sup> November 2005 Insp. Kiran Pal received secret information that Naresh Gaur would be visiting his house. At about 5:45 P.M. one person was seen coming in Tagore Gali, whom the secret informer pointed out as Naresh Gaur. Insp. Kiran Pal along with HC Manoj (PW-4) apprehended that person. On enquiry, the said person disclosed his name as

Naresh Gaur who was arrested vide arrest memo Ex.PW-4/A and his personal search was conducted vide personal search memo Ex.PW-4/B. Disclosure statement of Naresh Gaur was recorded vide Ex.PW-4/C. He pointed out the place of incident by leading them to the house of Reena Sharma. Pointing out memo was prepared vide Ex.PW-4/D.

8. On 21<sup>st</sup> November 2005, Insp. Kiran Pal along with Ct. Ombir (PW-5) received a secret telephonic information that Monu Sharma and Sanjay Singh were residing in the area of Arya Samaj Gali, Gandhi Nagar. They reached the place at house no. 6917, 2<sup>nd</sup> floor of the aforesaid area where Monu was found present. Monu Sharma was arrested vide arrest memo Ex.PW-5/A, his personal search was conducted vide personal search memo Ex.PW-5/B and his disclosure statement was recorded vide Ex.PW-5/C.

9. Thereafter, Monu made a call to Sanjay. Sanjay told Monu that he would be reaching at B Block, Geeta Colony. Insp. Kiran Pal deployed Ct. Ombir with Monu and instructed him to go to B Block in civil dress. Monu then pointed towards one person, who was apprehended. The said person disclosed his name as Sanjay Singh who was arrested vide arrest memo Ex.PW-5/E and his personal search was conducted vide memo Ex.PW-5/F. On his personal search 2 identity cards of BSES bearing no. N-375 valid from 19<sup>th</sup> March 2005 to 30<sup>th</sup> April 2005 were recovered which were seized vide memo Ex.PW-5/J. His disclosure statement was recorded vide Ex.PW-5/G.

10. Reena Sharma was examined as PW-3 in court wherein she deposed that on 5<sup>th</sup> May 2005, at about 11-11:30 A.M. she was going to deposit school fee of her son. As she was getting down the stairs, she saw the appellants present near the meter room, so she asked as to why they were

present there. The appellants replied that they had come from BSES and were changing electricity meters. She told them that she would come back after depositing the fee and would talk to them. She came after 1-1.5 hours, when the appellants were still present. She told the appellants that the meters installed by BSES were running very fast to which the appellants replied that they would slow down the speed of the meters for a charge of Rs. 2,000/-. She told the appellants that since her husband was not present at home, she would inform the appellants after consulting her husband. Thereafter, after coming back to her house, she called K.L. Arora, whom she knew and who worked in BSES, and informed him about appellants. K.L. Arora told her that she should check the ID Cards of the appellants, which she did and found the ID cards were issued by BSES. She again talked to K.L. Arora, who told her that she should keep the appellants busy so that he can send a team at the spot in the meantime. After about 1-2 hours, two officials from BSES namely Vinay and Bhupender came to her flat whereas the other team members remained downstairs. She talked to the appellants and they settled for Rs. 1500/- for slowing the meters. The appellants brought the electricity meter and opened it, fixed some part of the meter and it was re-sealed by them in her presence and the presence of above named BSES officials.

11. As noted above, appellants were arrested on the same day however, because the FIR was registered only on the formal complaint on 30<sup>th</sup> May, 2005, they later surrendered and faced the trial. However, from the evidence of Reena Sharma, the complainant and the recoveries made it has been proved beyond reasonable doubt that the appellants were indulging in tampering of the meters of the respondent.

12. Considering the evidence led by the prosecution, this Court finds no merit in the appeal. Appeal is dismissed.
13. Copy of this order be sent to Superintendent Central Jail Tihar for updation of the Jail record.
14. TCR be returned.

**MAY 31, 2019**  
**‘vj’**

**(MUKTA GUPTA)**  
**JUDGE**

