

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Criminal Appeal No. 981 of 2008**

**Judgment reserved on 16.09.2020**

**Judgment delivered on 08.10.2020**

1. Man Singh Markam S/o. Shri Kushi Ram, aged about 38 years, occupation Cultivation.
2. Sant Ram S/o. Shrawan Kumar Nareti, aged about 23 years, occupation cultivation.

Both residents of village Bhursi Dongari, PS Sihava, District Dhamtari (CG)

**---- Appellants**

**Versus**

State of Chhattisgarh, through Police Station Sihava, District Dhamtari (C.G.)

**---- Respondent**

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For Appellants : Mr. Sunil Sahu, Advocate.

For Respondent : Mr. Sameer Sharma, Dy. Govt. Advocate  
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**Hon'ble Smt. Justice Vimla Singh Kapoor**

**CAV Judgment**

Facts of the case in short are that 22.03.2006 at about 7.00 AM, one Loknath S/o. Kunwar Singh who was working with the appellants in their field had come in contact with a electricity wire which was taken illegally by the appellants for irrigation purposes. As a result of

which Loknath got electrocuted and died on the spot. On the basis of mereg intimation (Ex.P-12), the Investigating Officer reached the place of occurrence, gave notice (Ex.P-1) to the Panchas and prepared panchanama (Ex.P-2) on the body of the deceased. The dead body of the deceased was sent for postmortem examination to Primary Health Center Belargaon Chowki Borai District Dhamtari where the postmortem examination was conducted by Dr Suresh Kumar Nag (PW-15) who prepared the report (Ex.P-15). As per postmortem report, the cause of death was due to electric shock and duration of death was within 12 to 24 hours. FIR (Ex.P-7) and (Ex.P-18) was lodged by (PW-9) and (PW-17) against the appellants. After completion of investigation, charge sheet was filed against the appellants under Sections 304(A) IPC and 135 (A) of the Electricity Act followed by framing of charge accordingly.

- 2.** Learned Court below held the accused/appellants guilty for all the aforesaid charges and sentenced them to undergo RI for 2 years with fine of Rs. 5000/- u/s 304 (A) IPC, to pay fine of Rs. 9000/- under Section 135(A) of the Electricity Act respectively, vide judgment impugned dated 13.10.2008 passed in Special Criminal Case No. 21/2007. Hence this appeal.
- 3.** Counsel for the appellant submits that the judgment of conviction and order of sentence passed by trial court is arbitrary, illegal and contrary to the evidence collected by the prosecution. He submits that Duban Singh Nishad (PW-1), Tulsi Ram (PW-4), Keshav Ram Sahu (PW-6) and Ramchandra (PW-8) have turned hostile and not supported the

case of the prosecution. He submits that there is no last seen evidence in this case. Deceased died due to his own negligence. As a last resort counsel for the appellants submits that if this Court does not interfere with the conviction part of the judgment impugned at least the sentence imposed on them may be reduced to the period already undergone.

**4.** On the other hand, state counsel supporting the impugned judgment has submitted that the judgment of the trial Court is strictly in accordance with law and well founded and there is no illegality or infirmity in it warranting any interference by this Court.

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

**6.** True it is that from the evidence which has come on record that there was certain element of negligence on the part of the appellants to the extent of firstly taking illegal electricity connection and subsequently not taking proper care of the illegally taken connection inasmuch as the said illegally taken connection came in contact with the wire put around the fields resulting in electricity passing through it. Duban Singh Nishad (PW-1) deposed that Loknath was working in the field of appellants and he signed the panchanama (Ex.P-1 to Ex.P-4). Testimony of these witnesses was duly corroborated by Tulsiram (PW-4), Kunwar Singh (PW-7) and Ramchandra (PW-8).

**7.** In the instant case, during inspection, element of illegal connection such as motor pump (mono block) 3 HP, section pipe 16 feet, delivery

pipe 10 feet, socket 63 am, 415 volt, wire in the colour of red (length about 1.5 KM), wire in the colour of blue (length about 0.3 KM) and wire in the colour of red (length about 0.2 KM), board in the size of 18x3 and 10 bamboo poles were seized from the possession of the appellants under seizure memo (Ex.P-8) by Junior Engineer of State Electricity Department. He submitted one written complaint (Ex.P-6) before the Police, informing that the appellants took illegal electricity connection from the electric pole. Panchama (Ex.P-4), seizure memos (Ex.P-5 & Ex.P-8) and spot map (Ex.P-14) were prepared by (PW-5 and PW-9) in the presence of the witnesses and thereafter the damage so caused by the appellants was assessed by the department is at Rs. 2,946/-. Assistant Lineman Gokulram Nirmal (PW-11) and Lineman Sarjaram Sinha (Ex.P-13) have proved the seizure memos (Ex.P-8 & Ex.P-4) and also supported the case of the prosecution.

**8.** It is not disputed by the learned counsel for the parties that Loknath died due to electrocution and it is also proved by (Ex.P-15) postmortem report submitted by Dr. Suresh Kumar Nag (PW-15). Merg intimation (Ex.P-12) lodged by (PW-14) Madhav Sori, Head constable was proved and the same was not challenged. Therefore, looking to the postmortem report (Ex.P/15), it is proved beyond reasonable doubt that Loknath (deceased) died due to coming in contact with live electric wire on 22.03.2006 and cause of death was due to electric shock. Thus, the statement of all these witnesses are quite consistent and therefore the conviction of the

accused/appellants recorded by the trial Court is based upon just & proper appreciation of evidence available on record which needs no interference by this Court.

**9.** As regards sentence, keeping in view the fact that the incident had taken place in the year 2006, that the accused/appellants have already remained in jail for a period of about 12 days and further that by now they must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on them to the period already undergone.

**10.** Appeal is thus allowed in part to the extent indicate above. As the appellants are already on bail, their bail bonds stand discharged.

Sd/-

**(Vimla Singh Kapoor)**  
**JUDGE**

Santosh