

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2721 of 2019**

- State of Chhattisgarh, through- P.S.- Tumla, District- Jashpur (C.G.) ----- **Petitioner**

Versus

- Goverdhan @ Dhan Rohidas, S/o Bhagwani Aged about- 23 years, R/o Beejagarh, P.S.- Kinjarkela, District- Sundargarh, (Orissa) ----- **Respondent**

 For State/Petitioner : Shri Ishwar Jaiswal, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****03/03/2020**

1. Heard on I.A. No. 01/2019, which is an application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & Others reported in (1996)3 SCC 132**, the delay of 199 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against the judgment dated 6th February, 2019 passed by Special Judge (Indian Electricity Act, 2003), Jashpur (C.G.) in Special Criminal Case under the Electricity Act Cases No. 02/2015 wherein the said Court acquitted the respondent for charge under Section 136 of the

Electricity Act, 2003 read with Section 379 of IPC, 1860 and Section 427 read with Section 34 of IPC, 1860.

5. As per version of the prosecution, electricity connection was being carried by a contractor namely Harishankar and it is found on intervening night of 4th & 5th December, 2015 that aluminum wires attached to 12 pole were removed. The matter was reported and investigated, the respondent was charge-sheeted and after completion of trial, the trial Court acquitted as mentioned above.
6. The case of the prosecution is based on statement of Sub-Inspector- Dipesh Saini (PW-9) and Junior Engineering- Rajendra Kumar Panna (PW-7). Sub-Inspector- Dipesh Saini (PW-9) deposed regarding seizure of aluminum wire and Rajendra Kumar Panna (PW-7) deposed that the seized wire is similar to the wire which is attached with pole. No one examined before the trial Court who has seen the respondent removing the wire. From the statement of Rajendra Kumar Panna (PW-7), it is clear that such wire may available in other places, therefore, on the basis of seizure, it cannot be held that wire which is removed from the pole is seized from possession of the respondent because the wire is available from other place also.
7. The trial Court evaluating the entire evidence recorded finding that the charges levelled against the respondent is not established. After going through the record, this Court is of the opinion that it is not a case where interference of this Court is required in the judgment of the trial Court. It is also not a case

where the respondent/accused should be called for full consideration of this petition.

8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge

Vasant