

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 646 of 2010**

- Ramkhilawan S/o Siyaram Marar, aged about 38 years, R/o Vill.Daihandih, PS Sahaspur Lohara, District Kabirdham (C.G.)

**----Appellant****Versus**

- State Of Chhattisgarh, through Police Station Sahaspur Lohara, District Kabirdham (C.G.)

**---- Respondent**


---

For Appellant : Mr. Ajit Singh, Advocate.

For Respondent/State : Ms. Deepti Shukla, P.L.

---

**Hon'ble Shri Justice Arvind Singh Chandel****Judgment on Board****09/03/2021**

1. This appeal has been preferred under Section 374 (2) of the Cr.P.C against the judgment dated 27/08/2010 passed in Special Case No. 44/2008 by learned Special Judge, Kabirdham (Kawardha) C.G. whereby the Appellant has been convicted under Section 304(A) (two times) of the IPC and Section 135 of Chhattisgarh Electricity Act and sentenced to undergo RI for 2 years(two times) and to pay fine of Rs. 5,000/- & 5,000/- and RI for 2 months and to pay fine of Rs. 1,000/- respectively, with default stipulations. All the sentence to run concurrently.
2. Facts of the case are that on 09.06.2008, morgue intimation was lodged by Saheb Lal (PW-1) and Dhan Singh (PW-2) before Police

Station Sahaspur Lohara, stating that at around 5:00 PM on the way of their village, an electric wire was lying on the ground and their mother and wife respectively Jhekul Bai and Ramiya Bai, came in contact with the said wire and died on the spot due to electric shock. After morgue inquiry on 26.06.2008, FIR was registered. It is alleged that the Appellant illegally connected electric connection in his house from electric pole and due to negligence of the Appellant, the wire was broken and lying down on the ground, as a result of which the deceased persons got affected and shocked by electric current. Thereafter, statement of the complainant as well as other witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet was filed and the Trial Court framed charges. The prosecution has examined as many as 9 prosecution witnesses. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the Trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the Appellant has been wrongly convicted by the trial Court without there being any reliable evidence available on record. He further submits that there is no evidence available on record which shows that the Appellant supplied electricity to his house illegally connecting wire from electric pole. There is also no evidence available on record which shows that the said broken wire, lying on the ground, was broken and fell from the house of the Appellant. From the evidence adduced by the prosecution, it is well

established that the electric connection provided from the electric pole was single phase connection and it was provided to all the houses situated around the house of Appellant, therefore, it is not established that the said wire lying down on the ground was caused by the Appellant. Thus, conviction of the Appellant is not sustainable.

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the Trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the available record minutely. I have also perused the statements of the complainant and other witnesses minutely.
7. There is no dispute on the point that deceased Jhekul Bai and Ramaiya Bai were died due to electric shock. There is also no dispute on the point that near the house of the Appellant, a broken wire was lying down and the deceased persons were came in contact with the said wire. Now, the only question remains is that whether the wire lying down on ground was illegally installed by the Appellant to his house and due to negligence of the Appellant, the said wire was broken?
8. In this case, Ramgopal (PW-3), Lalmani (PW-4) and Parmeshwar (PW-5) have not supported the case of prosecution and Lalmani (PW-4) and Parmeshwar (PW-5) were also declared hostile. Saheblal (PW-1), son of deceased Jhekul Bai, and Dhan Singh (PW-2), husband of deceased Ramaiya Bai, in their Court statement have deposed that near the house of the Appellant, one wire connected with electric pole was lying down on the ground and due to coming in contact with the said wire, the deceased persons died. Both the witnesses admitted the fact that,

nearby the house of the Appellant, houses of Shyamlal, Puniyabai, Udiram, Parmeshwar, Shyama, Itwari, Budhari are also situated and through the said pole, electricity supplied to their houses. Saheblal (PW-1) further admitted the fact that he earlier visited the house of the Appellant but he did not know whether the Appellant had electricity connection. Moreover, Ramgopal (PW-3), Lalmani (PW-4) and Parmeshwar (PW-5) also admitted the fact that prior to the alleged incident, at night there was a storm and one tree had fell down, due to which many wires were broken. In this condition, it is not established that the death occurred due to the broken wire was caused by the negligence of the Appellant. Lalit Rathore (PW-8) Assistant Engineer of Chhattisgarh State Power Distribution Company Ltd. deposed that he wrote a letter dated 21.07.2008 (Ex. P-12) to the Learned Sessions Judge, Kabirdham regarding theft of electricity by the Appellant. He further deposed that there was no electricity connection provided by the Electricity Board to the house of the Appellant. The electricity connection used by the Appellant was illegal. This witness further deposed that he never inspected inside the house of the Appellant, thus on what basis he deposed that the Appellant had illegally committed theft of electricity, this point is also not clear.

9. On minute examination of above evidence, it is clear that the deceased persons have died due to electric shock. But, there is no such evidence available on record that the Appellant has illegally connected electric connection in his house from the electric pole and due to his negligence, the wire was broken and lying down on the ground. Therefore, the conviction of the Appellant is not sustainable. Thus, the impugned order dated 27/08/2010 passed in Special Case No. 44/2008 by learned

Special Judge Kabirdham (C.G.) is set-aside.

10. Consequently, the Appeal is allowed. The Appellant is acquitted from the charges framed against him on the basis of benefit of doubt.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

**Sd/-**  
**(Arvind Singh Chandel)**  
**Judge**