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CRL.A.No.594 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.A.No.594 of 2018

1.Hari
2.Palanisamy

... Appellants

Vs.

State by
The Inspector of Police,
Kunnathur Police Station,
Tiruppur District.
(Crime No.501 of 2012)

... Respondent

Prayer: The Criminal Appeal filed under Section 374(2) of Cr.P.C. praying to set aside the judgement dated 19.09.2018 made in C.C.No.3 of 2016 passed by the Principal District and Sessions Judge, Tiruppur.

For Appellants : Mr.S.N.Arunkumar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This criminal appeal is directed as against the judgment passed in C.C.No.3 of 2016 dated 19.09.2018 on the file of the Principal District and



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Sessions Judge, Tiruppur, thereby convicted the appellant for the offences

punishable under Section 379 IPC r/w 135(1)(a)(b) of Electricity Act, 2003.

2. The case of the prosecution is that on receipt of secret information about the theft of electricity energy at Service Nos.1106/1a and 22/IV situated at C.K.Palayam, Sengapalli, Uthukuli, Tiruppur District, used by the accused, the authorities inspected the service connections on 05.12.2012 at about 12 p.m. On inspection, it was found that the service No.1106/1a was given for house and another one was given for agricultural purpose. The house service connection has a meter and the agricultural service connection has no meter. Further it was found that the meter fixed for house service connection was not functioning and fuse carrier fixed by the electricity board had been removed. From the said connection the accused dragged wire to their cattle farm and also used electricity for feed cutting machines. Further they also had dragged the wire to connect the grinder machine from the electricity service connection obtained for agricultural purpose. It was found that the accused also used agricultural service connection to their house purposes. Hence the complaint.

3. On receipt of the complaint, the respondent police registered FIR in



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Crime No.501 of 2012 for the offence under Sections 379 IPC r/w 135(1)(a)(b) of Electricity Act, 2003, after completion of investigation the respondent filed final report and the same has been taken cognizance by the trial Court in C.C.NO.3 of 2016.

4. On the side of the prosecution PW1 to 10 were examined and Exs.P1 to 8 were marked and also produced M.O.1 and on the side of the appellants no one was examined and no document was made.

5. On perusal of oral and documentary evidence the trial Court found the accused guilty for the offence under Section 379 IPC r/w 135(1)(a)(b) of Electricity Act and sentenced them to undergo 6 months simple imprisonment and also imposed fine of Rs.90,000/- each in default to undergo one month simple imprisonment. Aggrieved by the same the present appeal.

6. The learned counsel for the appellants would submit that both the appellants are small farmers and they are ready and willing to pay the electricity loss, argument for reduction of sentence. He would further submit that they were already undergone imprisonment for more than 25 days, now the second



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appellant is aged about 72 years old and he is also suffering by age old ailments.

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7. Per contra, the learned Government Advocate (Crl. Side) submitted that the accused had cattle farm and they used electricity service connections which were provided for their house and they used it as commercial purpose thereby the accused caused damage to the electricity department to the tune of Rs.3,34,699/-.

8. Heard the learned counsel for the appellants and the learned Government Advocate (Crl. Side) for the respondent and perused the materials available on record.

9. It is seen that both the appellants are son and father, they had obtained electricity service connections for their house and agricultural purposes respectively. The service connection for house is payable and the agricultural purpose is free from paying any consumer charges. Therefore, the accused had dragged wire from the agricultural service connection and used for commercial purposes and also used the electricity energy for their cattle farm, feed cutting machine and for their grinder thereby they caused loss to the electricity



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department to the tune of Rs.3,34,699/-.

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10. The person who inspected the service connection was examined as PW1. He deposed that on receipt of secret information, he inspected both the service connections and found that they were using electricity energy for commercial purposes and thereby caused loss to the electricity department to the tune of Rs.3,34,699/-. The person accompanied PW1 was examined as PW2, he also retracted the same evidence of PW1 thereby the prosecution categorically proved its case beyond any doubt. Therefore, this Court finds no infirmity or illegality in the order passed by the trial Court. However, considering the submission made by the learned counsel for the appellant, this Court is inclined to reduce the sentence alone.

11. Accordingly, the conviction rendered as against the appellants under Section 379 IPC r/w 135(1)(a)(b) is hereby confirmed. In so far as, the sentence is concerned, it is reduced to the period of imprisonment already undergone by the appellants on condition that the appellants shall pay a sum of Rs.1,50,000/- each in favour of the office of PW1 by way of Demand Draft, on or before



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19.12.2022, failing which, the sentence imposed by the trial Court shall stands automatically restored and the respondent shall secure the appellants to serve the remaining period of sentence. It is made clear that on such payment the trial Court is directed to appropriate the loss caused by the appellants.

12. With the above observation and direction, the criminal appeal stands partly allowed.

17.11.2022

ata

Index : Yes / No

Speaking / Non Speaking order

Note: Issue order copy on 21.11.2022.

To

1.The Principal District and Sessions Judge,
Tiruppur.

2.The Inspector of Police,
Kunnathur Police Station,
Tiruppur District.



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G.K.ILANTHIRAIYAN, J.
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