

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

228

CRM-A-1556-MA-2015

Date of Decision: 26.07.2023

State of Haryana

.....Applicant

Versus

Jagbir Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**Present:** Mr. Chetan Sharma, DAG, Haryana.

AVNEESH JHINGAN, J. (Oral)

1. This application under Section 378(3) Cr.P.C is filed for grant of leave to appeal against the judgment of acquittal dated 05.01.2015 passed by the Special Judge (Electricity), Gurgaon.

2. The facts shorn off unnecessary details are that during inspection of premises of respondent by officials of Electricity Department, it was found that the seals of the electricity meter were tampered. FIR No. 89 dated 10.07.2012 under Section 135 of the Electricity Act, 2003 was lodged. The Electricity Department had issued a Sales Circular No. D-43/2007 to deal with the issue as to whether the tampering of the meter could be termed as theft or not. As per the Circular, the case for theft of electricity is to be made only if the missing or tampered seal of the electricity meter is corroborated by the consumption pattern. The trial Court

concluded that there was no corroborating evidence of theft of electricity and the case was

based only on tampered and broken seals of the electricity meter. It was further considered that the procedure prescribed was not followed at the time of the inspection of the premises.

3. Learned State counsel submits that the evidence was not properly appreciated while acquitting the respondent.

4. The scope for interference in appeal against acquittal is well settled. A Division Bench of this Court in **State of Punjab v. Hansa Singh, 2001 (1) RCR (Criminal) 775**, while dealing with an appeal against acquittal held:

“We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in Ashok Kumar v. State of Rajasthan, 1991(1) SCC 166, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.”

5. It's a trite law that there cannot be re-appreciation of the evidence at stage of considering application under Section 378(3) Cr.P.C. There is no challenge to the factual position that apart from tempering of seals, no evidence was adduced to corroborate theft of electricity. The contents of circular issued by department and relied upon by trial Court is admitted. It is not disputed that the procedure as laid down was not followed while inspecting the premises. There is no factual or legal error much less

plausible and based upon the circular issued by the Electricity Department.

6. No case is made out for interference. The application is dismissed.

(AVNEESH JHINGAN)
JUDGE

July 26, 2023
Rajeev (rvs)

Whether speaking/reasoned	Yes
Whether reportable	Yes