NOTE : The Petitioner/ Accused was directed to be released on bail by the order of the High Court dated 26-04-2011 in Crl.A.M.P.No.789 of 2011 in Crl.A.No.441 of 2011.

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE TWENTIETH DAY OF DECEMBER TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No: 441 of 2011

Appeal under Section 374(2) of Cr.P.C aggrieved by the Judgment dated 28-03-2011 passed in C.C.No.1 of 2007 on the file of the Court of the I Additional District and Sessions Judge, Ranga Reddy District-cum-Metropolitan Sessions Judge, Cyberabad at L.B.Nagar, Hyderabad.

Between:

P. Dasarath Reddy, S/o P.Venkat Reddy, Age;40 years, Occ: Business, R/o Chinna Warwal Village, Ganded Mandal, Ranga Reddy District.

...Appellant/Accused

AND

The State of A.P., rep. by its Public Prosecutor, High Court of A.P., at Hyderabad.

...Respondent/Complainant

Counsel for the Appellant: Sri K.R. Sasidharan Nair

Counsel for the Respondent: Sri M. Vivekananda Reddy, Assistant Public Prosecutor

The Court delivered the following: JUDGMENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.441 OF 2011

JUDGMENT:

1. The Criminal appeal is filed by the appellant-accused questioning the Judgment dated 28.03.2011 in C.C. No.1 of 2007 passed by the I Additional District and Sessions Judge, Ranga Reddy District-Cum-Metropolitan Sessions Judge, Cyberabad at L.B.Nagar, Hyderabad, wherein the accused was convicted for the offence punishable under Sections 135 and 138 of the Indian Electricity Act (for short "the Act") and sentenced to undergo Rigorous imprisonment for a period of two years and to pay fine of Rs.5,000/-, in default to suffer Simple Imprisonment for three months for the offence punishable under Section 135 of the Act. Further, the accused sentenced to undergo Rigorous Imprisonment for a period of one year and to pay fine of Rs.2,000/-, in default to suffer Simple Imprisonment for a period of two months for the offence punishable under Section 138 of the Act.

2. Heard Sri K.R.Sasidharan Nair, learned counsel for the appellant-accused and Sri M.Vivekananda Reddy,

learned Assistant Public Prosecutor for the respondent-State and perused the record.

3. On 25.04.2001, the vigilance personnel of the Electricity Department, went to the premises of the appellant where pilferage of energy was committed and found that electricity connection stood in the name of late Sri P.Venkat Reddy, who is father of the appellant and the appellant was indulging in pilferage of energy by directly tapping the electrical power while the service was under disconnection. Though the electricity meter stood in the name of late Sri P.Venkat Reddy, the appellant was prosecuted for pilferage of electricity energy as it was committed by him. PW.1 prepared the Inspection notes about the incriminating material and also obtained the signature of the appellant on it. Thereafter, a complaint was filed and the appellant was charged for the offence punishable under Sections 135 and 138 of the Act.

4. Learned Sessions Judge having examined the witnesses i.e., PWs.1 to 6 and also documents i.e., Exs.P.1 to P.6, found favour with the conversion of PW.1 that there

was pilferage of electricity resulting in loss of Rs.1,85,760/- to the Electricity department.

5. Learned counsel for the appellant submitted that electricity meter was standing in the name of father of the appellant i.e., late Sri P.Venkat Reddy, as such he ought to have been the main accused. Alternatively, the learned counsel also submitted that the offence is compoundable offence and further the appellant is now bedridden with heart disease.

6. For better appreciation of the facts of the case, it is relevant to extract Section 135(e)(ii) which reads as follows:

Section 135. Theft of electricity:

> *(e) whoever, dishonestly uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:*
> *(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:*
> *Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted*

use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:
Provided also that if it is proved that any artificial means or means not authorised by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

7. Having gone through the record, there is no infirmity in the finding of the learned Sessions Judge. However, keeping in view of the age of the appellant and the undertaking of the appellant to pay a fine amount in accordance with Section 135(e)(ii) of the Act, this Court deems it appropriate to order as follows:

Insofar as offence under Section 135 of the Act is concerned, since the loss was assessed as Rs.1,85,760/- and the electricity consumption exceeds 10 kilowatts and there are no other convictions against the appellant, the appellant is liable to pay three times of financial gain on account of loss occurred due to his pilferage of electricity energy i.e., Rs.5,57,280/-

(Rs.1,85,760/- x 3) within eight (08) weeks from the date of receipt of a copy of this order, failing which, the appellant shall undergo Simple Imprisonment for a period of one (01) year. Further, the sentence and conviction imposed against the appellant for the offence punishable under Section 138 of the Act is hereby set aside while maintaining the fine amount of Rs.2,000/-.

8. Accordingly, this Criminal Appeal is partly allowed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- C.V. MALLIKARJUNA VARMA
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The I Additional District and Sessions Judge, Ranga Reddy District-cum-Metropolitan Sessions Judge, Cyberabad at L.B.Nagar, Hyderabad. (with records, if any)
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
3. One CC to Sri K.R. Sasidharan Nair, Advocate [OPUC]
4. Two CD Copies

kam/gh

HIGH COURT

DATED:20/12/2024

JUDGMENT

CRLA.No.441 of 2011



THE CRIMINAL APPEAL
IS PARTLY ALLOWED

(7)

Kpr
25/3/25