

239-2
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-2013-2022
Date of decision: 16.01.2024

Gurdhyan Singh

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Pranav Chamoli, Advocate for the appellant.
(Legal Aid Counsel)

Mr. Vishal Kashyap, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present appeal has been filed by the appellant/accused against the judgment and order dated 6/7.06.2022. passed by the Court of Special Judge, (Electricity Act), Kaithal whereby appellant was convicted and sentenced to simple imprisonment for 3 years and 10 months and to pay a fine of Rs.10,000/- and in default of payment of fine to further undergo simple imprisonment for a period of 2 months for commission of offence punishable under Section 136 (2) of Electricity Act in case having FIR No.6 dated 12.01.2019 under Section 136/137 Electricity Act, 2003 Police Station Guhla.
2. The case of the prosecution in brief is that Tarsem Singh SDO received complaint that wires and other material of transformers of

consumer Usha Rani resident of village Chaba to the tune of Rs.37,896/- were stolen during the mid night of 19.12.2018. On the basis of the said complaint FIR was lodged and during investigation appellant Gurdhyan Singh and one Jarnail Singh were arrested and they suffered disclosure statements and Jarnail Singh got effected recovery of 5 quintal 75 kilogram of stolen copper wire. On completion of investigation, police presented the final report under Section 173 of Cr.P.C.

3. The learned trial Court framed charges under Sections 136 and 137 of the Electricity Act to which the accused persons including the appellant had not pleaded guilty and claim trial.

4. The prosecution examined PW-1 SI Jagbir Singh, PW-2 Tarsem Singh SDO, PW-3 E/ASI Dalbir Singh, PW-4 J.E. Hazoor Singh, PW-5 Akashdeep J.E., PW-6 Raghbir, PW-7 ASI Ujjawal Singh, PW-8 HC Baljit Singh and PW-9 Contable Rajender Singh and also proved documents Ex.P-1 to Ex.P-6. In the meantime, the accused persons confessed their guilt.

5. Thereafter, on the basis of the evidence led by the prosecution coupled with the fact that the accused pleaded guilty, the learned trial Court passed impugned judgment and order dated 6/7.06.2022 whereby appellant and Jarnail Singh were convicted and sentenced as detailed in the first paragraph of the present judgment.

6. The appellant being aggrieved has filed the present appeal.

7. I have heard the counsel for the appellant and the State counsel.

8. The counsel for the appellant submits that as per the provision of Section 375 (b) Cr.P.C there is very limited scope to challenge the

judgment dated 06.06.2022 passed by the learned trial Court whereby the appellant was convicted under Section 136 (2) of Electricity Act on the basis of the confession made by the appellant pleading guilty as the same was voluntary and without threat, enducement and pressure. The counsel for the appellant further submits that as per the custody certificate furnished by the State counsel, the appellant has already undergone sentence for a period of more than 3 years and 3 months. The counsel for the appellant further submits that the sentence awarded by the learned trial Court be modified and reduced to the period already undergone while keeping intact fine imposed by the trial Court by taking into consideration the fact that appellant is a poor person and is sole bread winner of his family.

9. The State counsel while supporting the impugned judgment and order submits that there is no illegality in the same and that the appeal deserves to be dismissed.

10. I have considered the submissions made by counsel for the parties.

11. As far as conviction of the appellant is concerned, no ground is made out to interfere in the same by virtue of the provision of Section 375 Cr.P.C. So the judgment passed by the trial Court whereby the appellant was convicted under Section 136 (2) of Electricity Act, is hereby upheld.

12. It appears that the appellant is also convicted in some other cases under Section 136 of the Electricity Act. So, as per sub-section 2 of Section 136, he is to be sentenced to imprisonment for not less than 6 months and fine shall not be less than Rs.10,000/-. Admittedly, in the present case the appellant has already undergone sentence for a period of 3

years and 3 months. It appears that the appellant belongs to poor strata of society and being the head of family is sole bread winner of the family. In the given circumstances, the sentence imposed by the trial Court in the present case is reduced to the period already undergone by the appellant. However, fine of Rs.10,000/- imposed by the trial Court is kept intact.

13. The present appeal stands disposed of in aforesaid terms.

16.01.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No