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CGHC010282792019 2026:CGHC:46595

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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1271 of 2019

1 - Shiv Prasad Patel S/o Shri Ugrasen Patel, Aged About 46 Years, R/o Village Salheona, Police Station Sariya, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

... Appellant

versus

1 - State of Chhattisgarh Through Station House Officer, Police Station Sariya, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

... Respondent

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Roop Naik, Advocate.
For State	:	Mr. Rohan Shukla, Panel Lawyer.

Hon'ble Shri Justice Ravindra Kumar Agrawal
Judgment on Board

03-11-2026

1. The appellant has filed the present Criminal appeal under Section 374(2) of the Cr.P.C. against the impugned judgment of conviction and sentence dated 08-08-2019 passed by the learned Special Judge, (under the Electricity Act) District Raigarh (C.G.) in Electricity Act Case No.2060000017/2016 whereby the appellant has been convicted and sentenced in the following manner:-

Conviction	Sentence
U/s 135 of the Indian Electricity Act, 2003	Fine amount of Rs.7,05,417/- in default of payment of fine amount S.I. for 09 months.

2. The case of the prosecution in brief is that, on 02-03-2016 the Junior Engineer of C.G. State Power Distribution Company Ltd. (in short ‘the CSPDCL’) found that during inspection of the electricity line that there was

use of electricity by direct hooking from LT line in the agricultural field of the appellant situated behind the hostel, village Salheona, District Raigarh. The loss due to illegal electricity connection was assessed of worth Rs.2,35,139/- and a report was submitted by the Junior Engineer to police under Section 135 of the Electricity Act for registration of the FIR. The FIR Ex.-P/7 was registered against the appellant. The panchanamas which were prepared by the officers of the CSPDCL during the inspection have been seized. Statement of the witnesses have been recorded and after commission of investigation charge sheet was filed against the appellant for the offence under Section 379 of the IPC and Section 135 of the Electricity Act, 2003 before the learned trial Court.

3. The learned trial Court framed charge against the appellant for offence under Section 135 of the Electricity Act. The appellant denied the charge and claimed trial.

4. In order to prove the charge against the appellant the prosecution has examined as many as 4 witnesses. Statement of the appellant under Section 313 has also been recorded in which he denied the circumstances that appears against him, pleaded innocence and has submitted that he has been falsely implicated in the offence. He is consumer of the CSPDCL and having electric connection in his name for agricultural purposes. He is having a separate electricity connection for his house and just behind his house his agricultural field is situated. He never did any work of brick kiln and nor he committed any theft of electricity. The accused himself has been examined as DW-1.

5. After appreciation of oral as well as documentary evidence led by the prosecution the learned trial Court has convicted and sentenced the appellant for the alleged offence as has been mentioned in the earlier part of this judgment. Hence, this appeal.

6. Learned counsel for the appellant would submit that the prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of prosecution witnesses, which cannot be made basis to convict the appellant for the alleged offence. The prosecution witnesses have not supported the prosecution's case who are the employee of the CSPDCL itself. Even there is no evidence that the subject premises is owned by the appellant. Except the seizure of electric wire of about 3 meter no other article has been seized. The panchnamas prepared by authorities of the CSPDCL does not bear any signature of the appellant and it has been mentioned that the appellant has refused to sign the panchnamas, whereas, there is no signature of any witnesses who would say that the appellant has refused to sign the panchnamas. He would further submit that there is no independent witness in the case. The witness who have gone on the spot for inspection have not made any enquiry from the persons available in the surroundings and and except the departmental witnesses no other independent witnesses have been called by the prosecution. All the paper formalities have been prepared behind the back of the appellant only to prosecute him for the offence in question. He would further submit that the electricity connection of the appellant was disconnected on the same day for which a memo Ex.-D/1 was issued to him and on his request his electricity connection was reinstated. There is no independent investigation by the Investigating Officer and only on the basis of the documents submitted by the officers of the CSPDCL the charge sheet has been filed against the appellant. There are material omissions and contradictions in the evidence of the prosecution witnesses which are not sufficient to hold the appellant guilty for the alleged offence, therefore, the impugned judgment of conviction and sentence suffers from illegality and perversity and the same is liable to be set aside and the appellant is entitled for his acquittal.

7. On the other hand, learned counsel appearing for the State opposes the submissions made by learned counsel for the appellant and would submit that the prosecution has proved its case beyond reasonable doubt. But for minor omission or contradiction the evidence of prosecution witnesses are sufficient and reliable to hold the appellant guilty for the alleged offence. The appellant has refused to sign the document on spot at the time when the inspection was carried out by PW-1. The seizure has been mentioned in the panchnama Ex.-P/1 and P/2 which has been submitted before the police for registration of the FIR. During inspection it was found that the appellant was using the electricity connection illegally by hooking from the LT line through which the electricity connection was provided to him in his house. The loss has rightly been assessed by the officers of the CSPDCL and since the appellant was found in illegal use of the electricity connection he was prosecuted and ultimately convicted by the learned trial Court. The evidence produced by the prosecution is reliable and sufficient to maintain his conviction. There is no illegality or perversity in the impugned judgment and the appeal is liable to be dismissed.

8. I have heard learned counsel for the parties and perused the record of the learned trial Court.

9. The learned trial Court after appreciating the oral as well as documentary evidence led by the prosecution held the appellant guilty for the offence under Section 135 of the Electricity Act for theft of electricity. It is alleged that the appellant was committing theft of electricity by hooking from the LT line and used it in his brick kiln which was illegally run by him.

10. PW-1 Pramod Tigga is the Junior Engineer who conducted the inspection on the spot. He stated in his evidence that the appellant was provided domestic electricity connection from the department. On 02-03-2016 he along with Assistant Line-man Akhilesh Agar and Assistant Rajkumar Ratre had gone to

village Salheona to inspect the electricity connection and during their inspection they found that the appellant is using electricity illegally by running his 5 HP agricultural pump and using electricity lights in his brick kiln. At the time of inspection the appellant himself was present along with Kotwar Padumlal, and other persons Kishan Kumar Ijardar, Frenchaji Sariya and Mukteshwar Patel were also present. During inspection he seized 3 meters electricity wire and prepared the panchnama Ex.-P/1, spot inspection report Ex.-P/2, seizure memo Ex.-P/3, spot map Ex.-P/4. On assessment the loss of Rs.2,35,139/- was assessed and assessment sheet Ex.-P/5 was prepared. He also gave a written complaint Ex.-P/6 to the police and FIR then FIR Ex.-P/7 was registered. The seizure memo Ex.-P/8 was also prepared and the spot map has been prepared by the police which is Ex.-P/9. In cross-examination he stated that on the date of incident he has not inspected any other electricity connection at village Salheona and he voluntarily stated that against the appellant there was an outstanding amount of electricity charges and for its recovery he had gone there. He further stated that in the process of recovery of electricity charges, he disconnected the electricity connection of the appellant. He did not know as to whether the house and agricultural field of the appellant are adjacent or not. He voluntarily stated that for disconnection of electricity connection he himself had not gone there, but he sent his staff Akhilesh Aagar and Rajkamal Ratre and they have disconnected the electricity connection. The campus which has been inspected by him is situated at the distance of half kilometer from the house of the appellant. At the time of inspection the appellant was in his house. He further admitted that the campus in which the tubewell and brick cline was shown in the spot map Ex.-P/4, he did not know about its ownership. The appellant himself said that it is his property. He further admitted that the appellant is a agriculturist and he does not run any brick kiln. He further stated that the appellant is working in a brick kiln, but he himself did not see

him working in the brick kiln. He further admitted that the himself has not made any enquiry from the concerned Patwari about the ownership of the subject premises. On the date of incident he had gone there at 02:50 p.m. and stayed there for about 15-20 minutes. Thereafter, he proceeded towards Power House Salheona where the appellant also came for restitution of his electricity connection. He further admitted that he has not enquired from any person from the hostel which has been shown in the spot map Ex.-P/4. He denied that due to disconnection of the electricity line of the appellant's house the dispute arose between them and for that reason he prepared a false case against him.

11. PW-2 Rajkamal Ratre is Line Assistant Grade III posted at CSPDCL Sariya. He stated in his evidence that he alongwith the Junior Engineer and Vijay Patel had gone to the inspection of electricity connection with respect to the electricity connection of appellant Shiv Prasad Patel. He did not know as to whether Shiv Prasad Patel had taken illegal or legal connection. On the instance of the Junior Engineer they disconnected the aforesaid connection and seized the electricity wire. They also prepared panchnama Ex.-P/1. At the time of inspection the appellant was present on the spot. Thereafter, they informed it to the police. In his presence the police has not seized anything, though his signature is there in the document Ex.-P/8. At this stage this witness has been declared hostile and when leading question was asked by the prosecution he admitted that the appellant was running 5 HP tubewell pump by direct hooking. He did not know as to whether any electricity bulb was using or not. In cross-examination he admitted that at Village Salheona, adjacent to the house of the appellant his agricultural field is situated. The 5 HP tubewell pump is also fixed in his agricultural field. Electricity meter was also installed in the house of the appellant and he did not know about its load capacity. He denied that there was outstanding bill of electricity against the

appellant. He subsequently, stated that his electricity connection was disconnected for want of payment of electricity bills, but he did not know as to whether it was reconnected on his request or not. He has not made any enquiry with respect to 5 HP tubewell pump of the appellant. He could not tell as to which document he signed in the house of the appellant and which document he signed in the electricity office.

12. PW-3 Akhilesh Aagar is Assistant Lineman who was also a member of the inspection team. He stated in his evidence that he did not know about any incident and he has not gone on the spot. On the instance of the officers of the electricity department he signed the documents in the office. When leading question was asked from this witness, he denied that he accompanied the officers of the CSPDCL for inspection and prepared panchnamas there. He also denied that during inspection they found illegal use of electricity by the appellant by hooking and they disconnected the same.

13. PW-4 Heeralal Tiwari is the Investigating Officer of the case. He stated in his evidence that on 08-03-2016 he received written complaint from the Junior Engineer, CSPDCL Sariya for registration of the FIR against the appellant on which he registered the FIR Ex.-P/7 under Section 379 of the IPC and Section 135 of the Electricity Act. He forwarded the copy of the FIR to the jurisdictional Magistrate at Sarangarh which is Ex.-P/10. He also prepared spot map Ex.-P/9 and seized the electricity wire vide seizure memo Ex.-P/8. He arrested the appellant and recorded the statement of the witnesses and then charge sheet was filed before the learned trial Court. In cross-examination he admitted that he received information from the CSPDCL for registration of the FIR after about 6 days and before that the electricity department has completed the entire formalities. After receiving the information from the CSPDCL he did the further proceeding. He admitted that

there is overwriting in column No.5 of the spot map and there is no four corners shown in the spot map. He further admitted that he has not made any independent person as witness in the spot map. He further admitted that in the present case there is no independent witnesses and he has not recorded statement of any of them and all the witnesses are departmental witnesses. He also has not recorded the statement of the seizure witnesses and has not named the seizure witnesses Bisan Kumar, Mukteshwar Patel and Padumlal Chouhan as cited witness in the case. With respect to the fact that the appellant is also a consumer of the electricity department he has not separately enquired the matter. He further admitted that he has not obtained any revenue document with respect to ownership of the field where the 5 HP tubewell pump was installed and also has not obtained the ownership of the subject field.

14. From the aforesaid evidence of the prosecution witnesses it is clear that there is no independent witnesses in the case and all the witnesses are departmental witness. PW-3 Akhilesh Aagar has turned hostile and not supported the prosecution’s case. There is no signature of the appellant in the panchnama Ex.-P/1 and P/2 and it has been mentioned that the appellant has refused to sign the document, whereas, his refusal has also not been supported by any independent witness. Had the appellant refused to sign the panchnama prepared in his presence, it ought to have been supported by the persons who were present on the spot that the appellant has refused to sign the document, whereas, there is no evidence to this effect. Even there is no evidence on record that the subject field where the alleged electricity connection was being used illegally belongs to the present appellant. There is no seizure of tubewell pump which was running through the alleged illegal connection and only 3 meter electricity wire has been seized by the officers of CSPDCL.

15. From the evidence of the Junior Engineer PW-1 Pramod Tigga, he himself had not gone to disconnect the electricity pump connection and as per his evidence the appellant was in his house at that time. The witness Akhilesh Aagar, Assistant Line-man who had gone there, has turned hostile and not supported the prosecution's case. From the evidence of the Investigating Officer and other prosecution witnesses it is apparent that there is nothing on record to suggest that the field from where the electricity wire was seized with the allegation that the appellant was illegally running his 5 HP tubewell pump were belonged to the appellant. The learned trial Court while recording the finding of conviction did not appreciate that the field on which the alleged running of tubewell pump was stated, was belonged to the appellant. Further the entire inspection proceeding has not been supported by any independent witness.

16. In view of the foregoing discussion and the evidence available on record, this Court is of the considered opinion that the prosecution has failed to establish beyond reasonable doubt that the appellant was responsible for unauthorised use of electricity as alleged. The material contradictions and omissions in the testimonies of the prosecution witnesses, absence of independent witnesses, failure to establish the appellant's ownership or possession of the field in question, and lack of reliable evidence connecting him with the alleged illegal electricity connection create serious doubt regarding the prosecution's case. The learned trial Court has failed to properly appreciate these material infirmities while recording the finding of conviction.

17. Accordingly, this Court finds sufficient ground to interfere with the conviction and sentence of the appellant as the same suffered from perversity and illegality. In the result, the appeal filed by the appellant is **allowed**. The impugned judgment of conviction and sentence passed by the learned trial Court is **set aside**. The appellant is acquitted from the charges levelled

against him extending benefit of doubt.

18. The record of the trial Court be sent back along with a copy of this judgment for compliance and necessary action.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Aadil