CGHC010405932024 2026:CGHC:44139

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No.2088 of 2024

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
30.09.2026	13.10.2026	--	14.10.2026

1 - Parasram Baiga S/o Shri Lamu Baiga Aged About 35 Years R/o Village Bhedagarh, P.S. Kukdur, District Kabirdham, Chhattisgarh.

Appellant (s)

versus

1 - State Of Chhattisgarh Through Police Station Kukdur, District Kabirdham, Chhattisgarh.

Respondent(s)

For Appellant (s)	**:**	Mr. Mahesh Kumar Mishra, Advocate
For Respondent (s)	**:**	Mr. Vivek Mishra, PL

Hon'ble Mr. Justice Naresh Kumar Chandravanshi

CAV Judgment

Digitally signed by R NIRALA

1. This criminal appeal has been preferred by the appellant under Section 415 (2) of BNSS, 2023 challenging the judgment of

conviction and order of sentence dated 09.10.2024 passed by the learned Special Judge (Electricity Act), District Kabirdham (C.G.) in Special Electricity Case No.869/2021, whereby the appellant has been convicted and sentenced as under:-

Conviction	Sentence
u/S 135 (1) (A) of the Electricity Act, 2003	RI for 6 months and fine of Rs.300/- and in default of payment of fine, additional RI for 15 days
u/S 304 (A) of IPC	RI for 6 months and fine of Rs.300/- and in default of payment of fine, additional RI for 15 days

Both the sentences have been directed to run concurrently.

2. The case of the prosecution, in brief, is that the informant Tirathram lodged a report on 30.08.2020 at the Police Station concerned to the effect that on 30.08.2020 at about 9.00 am, his uncle Baishakhu's daughter Ku. Neha, aged about 7 years, had gone to Panihari drain with her friends, where an electric wire for the motor pump was drawn by the appellant allegedly from electric pole to his agricultural field for farming, but the wire got broken and fell into the drain as such electricity spread in the drain and while taking bath Ku. Neha came into contact with electricity and she died due to electric current. During investigation, it was found that appellant/accused was using a single phase 1.5 HP mono block motor for agriculture work directly hooking 10 S.W.G. aluminum wire with the help

of bamboo and poles through Panihari drain to his farm located at 250 meters away. Thereafter, an FIR was registered against the appellant for the offence under Section 304-A of IPC. During the course of investigation, inquest report of dead body (Ex-P/4) was prepared and postmortem was conducted by Dr. Prasangina Sadhu (PW-8). The spot map was prepared by the Police and Patwari and two bundles of aluminum wire, length about 280 metres, and one monoblock motor pump was seized from the appellant vide seizure memo (Ex-P/6). The statement of witnesses was recorded and report (Ex-P/9) was received from the Junior Engineer of Chhattisgarh State Power Distribution Company Limited, Distribution Centre, Kukdur. Another report (Ex-P/11) was also received from the Office of Assistant Engineer (Safety) and Assistant Electrical Inspector, Sub Division, Rajnandgaon. After investigation, charge sheet was filed before the Special Court (constituted under the Electricity Act), District Kabirdham (henceforth referred as 'Special Court') for the offence under Section 304-A of IPC and Section 135 (1) (A) of the Electricity Act, 2003. The appellant abjured the guilt and claimed trial.

3. In order to bring home the charges, the prosecution examined 10 witnesses and exhibited 17 documents. Examination of accused was recorded, in which he denied all the incriminating

circumstances appearing against him. He has not examined any witness in his defence.

4. The learned Special Court after appreciating the evidence available on record convicted and sentenced the appellant, as has been mentioned in opening paragraph of this judgment.

5. Learned counsel for the appellant would submit that it is alleged that the appellant had taken illegal electric connection from electric pole situated near Panihari drain to his agricultural field, but it has not been proved by the prosecution that the said agricultural field was owned and possessed by the appellant/accused, whereas Baisakhu (PW-4), who is the father of the deceased, himself has admitted in his cross-examination that various persons had taken electric connection in their agricultural field situated near the drain, therefore, the prosecution ought to have proved conclusively that the appellant had taken electric connection in his own agricultural field, which resulted into death of the deceased. He further submits that the incident had taken place on 30.08.2020 but no such article was seized from the appellant from his agricultural field on the date of the incident, rather mono block motor pump and electric wire were seized from the appellant after 2 months of the incident, hence those belated seizure cannot be connected with crime in question. He further submits that there is no lawful evidence to convict the

appellant for the aforesaid offence and only on the basis of vague and baseless statement of the prosecution witnesses, the learned Special Court has convicted and sentenced the appellant. Hence he prays that the appeal be allowed and the appellant be acquitted of all the charges.

6. Per contra, learned State counsel supports the impugned judgment and submits that the Assistant Engineer Samir Kumar Niyogi (PW-6) had submitted his report (Ex-P/9) that the appellant had not taken valid electric connection from the Agriculture Department for the purpose of running electric pump, which shows that the said connection was taken by the appellant illegally from electric pole, which resulted into death of the deceased. This fact has also been supported by the witnesses. Hence the appeal deserves to be rejected.

7. Heard learned counsel for the parties and perused the material available on record including the record of the learned Trial Court.

8. PW-4 Baisakhu is father of deceased Neha. He has stated in his deposition that on the date of incident, her daughter Neha, aged about 6 years, suffered electrocution near Panihari drain and thereafter died. This fact also gets support from deposition of Tirath Ram Dhurve (PW-1), who after receiving information had gone to the place of occurrence and had seen deceased

Neha lying in the water of drain. The aforesaid fact has also been supported by Bhagat Ram Dhurve (PW-2), Bhanwar Singh Baiga (PW-3), Kotwar Shriram (PW-5) and the Inspector Ram Kishan Markam (PW-10), who prepared inquest report (Ex-P/4) of dead body of deceased and recorded merg report (Ex-P/1). Nothing has been elicited in the cross-examination of the aforesaid witnesses to disbelieve the aforesaid fact.

9. Dr. Prasangina Sadhu (PW-8) conducted postmortem of deceased on 30.08.2020 i.e. on the date of incident. She opined vide postmortem report (Ex-P/10) that cause of death of deceased was respiratory failure due to electric current. She also opined that nature of death of deceased was accidental.

10. Thus, from the aforesaid evidence, it is proved that on 30.08.2020, the deceased Neha died in drain of her village due to electrocution.

11. Now the question to be considered is, as to whether the deceased Neha electrocuted from electric wire illegally taken by the appellant from electric pole to his agricultural field or not?

12. In this regard, Baisakhu (PW-4) has stated in his deposition that the appellant had taken electric connection/wire from electric pole to his agricultural field for its irrigation, that electric wire was broken and fell in the drain, therefore, deceased had

suffered electrocution. His statement has also been supported by Tirath Ram Dhurve (PW-1), Bhagat Ram Dhurve (PW-2) and Bhanwar Singh Baiga (PW-3). These witnesses have also admitted in their cross-examination that there were agricultural fields of residents of other villagers also near Panihari drain. Father of deceased Baisakhu (PW-4) has also admitted in para 5 of his cross-examination that his relatives, whose agricultural filed was near the said drain, have also taken electric connection/wire in their agricultural field for its irrigation.

13. Though Tirath Ram Dhurve (PW-1), Bhagat Ram Dhurve (PW-2) and Bhanwar Singh Baiga (PW-3) have denied the suggestion that they have also taken electric connection to their agricultural field, but it appears from the admission of Baisakhu (PW-4) in para 5 of his cross-examination that the other villagers have also taken electric connection from the electric pole into their agricultural field. In such situation, the prosecution ought to have proved the fact that the alleged electric connection, which was broken and fell into the drain, was the electric connection which was taken by the appellant in his agricultural field. Except verbal statement of aforesaid witnesses, nothing is there to prove that the said agricultural field was owned/possessed by the appellant, no revenue document etc. has been filed/proved by the prosecution. Even Patwari Virendra Kumar Pusam (PW-7), who prepared spot

map (Ex-P/8), has also not demonstrated in patwari map (Ex-P/8) about the aforesaid fact. In the spot map (Ex-P/2) prepared by the Police, it has been shown that the said electric wire was taken in the field of appellant from electric pole, but it has not been proved by the prosecution that what was the khasra number of that agricultural field and who is the owner/possessor of that agricultural field. In this regard, the prosecution ought to have filed and proved revenue document i.e. khasra/B-1, but no such document has been filed/proved. Therefore, verbal statement of aforesaid witnesses cannot be relied upon.

14. It has been stated by the prosecution witnesses in their deposition that the appellant had taken illegal electric connection from the electric pole to his agricultural field for irrigation of the same, but Bhagat Ram Dhurve (PW-2) has stated in his examination-in-chief that the said electric connection was taken from the house of Bhanwar Singh Baiga (PW-3), which contradicts the statement of other prosecution witnesses that the said electric connection was taken from the electric pole.

15. The incident had occurred on 30.08.2020 at about 9 am, but two bundles of aluminum wire and one monoblock motor pump were allegedly seized from the house of the appellant on 30.10.2020 i.e. after 2 months from the date of incident.

Having considered such a long delay in seizure of aforesaid article, that seizure cannot be connected with the crime in question. Hence, it is not helpful for the prosecution.

16. The Assistant Engineer Samir Kumar Niyogi (PW-6) has stated in his deposition that on the query of Police of Police Station Kukdur, he had given information vide Ex-P/9 that the appellant had taken electric connection for domestic purpose, but he had not taken any type of electric connection from Electrical Department i.e. permanent or temporary for agriculture purpose.

17. The Sub Engineer Tikendra Kumar Deshmukh (PW-9) had inspected the place of incident on 10.12.2020. He has stated in his deposition that on inspection, he found that the appellant had taken illegal electric connection through two open wire with the help of wooden/bamboo pole from 4th pole of transformer and distance of that was 120 metres, by which he used to run mono block motor pump of 1.5 HP to irrigate his agricultural field, but Tikendra Kumar Deshmukh (PW-9) has admitted in his cross-examination that he had not examined as to the title of the said land, rather in enquiry, he was informed that the said agricultural field was of the appellant. The incident occurred on 30.08.2020, but this witness conducted spot inspection on 10.12.2020 and submitted report (Ex-P/11) dated 22.03.2021. Further, he has not examined ownership of the

said land where broken electric connection was taken. Therefore, looking to his vague and baseless statement, the report (Ex-P/11) based on belated inspection is not found to be reliable to hold that the appellant was the owner/possessor of the said agricultural field.

18. In view of the above discussions of oral and documentary evidence adduced by the prosecution, it cannot be held beyond reasonable doubt that the alleged electric wire from the electric pole was taken by the appellant to his agricultural field, rather evidence adduced by the prosecution in this regard against the appellant is not found to be sufficient to hold him guilty for the charges levelled against him. Hence, the impugned judgment of conviction and order of sentence deserve to be set aside/quashed.

19. Accordingly, the appeal is allowed. The impugned judgment of conviction and order of sentence passed by the Special Court against the appellant are hereby set aside/quashed. The appellant is acquitted of the charges under Section 135 (1) (A) of the Electricity Act, 2003 and Section 304 (A) of IPC.

20. The appellant is reported to be in jail. He be released forthwith, if he is not required to be detained in any other offence.

21. Keeping in view the provisions of Section 481 of BNSS 2023, the appellant is directed to furnish a personal bond for a sum

of Rs.25,000/- before the Court concerned forthwith, which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

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

23. Interim application, if any, stands disposed of.

Sd/-

(Naresh Kumar Chandravanshi)
Judge

Nirala