CHITRA SANJAY SONAWANE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Revision Application No.184 of 2005

Balkrishna Jagannath Shetty … Applicant.
Vs.
The State of Maharashtra & Anr. … Respondents.

Mr Yasir Khan h/f Mr Sandeep C Kekane for the applicant.
Mr Arfan Sait, APP for the respondent / State.

Coram : R.N.Laddha, J.
Date : 17 January 2026.

P.C. :

By the present revision application, the applicant, who was the original accused, assails the order dated 10 January 2005 passed by the Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai, in CC No.111/P/2003; and the judgment and order dated 11 June 2005 passed by the learned Additional Sessions Judge, Mumbai, in Criminal Appeal No.43 of 2005, whereby the applicant came to be convicted for the offence punishable under Section 39 read with Section 44 (c) of the Indian Electricity Act.

2. The prosecution case, in brief, is that the complainant

was an employee of the Brihanmumbai Electricity Supply and Transport Undertaking (BEST). On 7 February 2003, pursuant to instructions issued by the Deputy Engineer of BEST, the complainant inspected the electricity meter installed at the premises allegedly occupied by the applicant. During the said inspection, it was claimed that the seals and terminal box of the meter were found in a tampered and broken condition. Upon testing, the meter was found to be running slow. Accordingly, the complainant lodged a complaint against the present applicant and crime came to be registered vide CR no.37 of 2003 for the offences punishable under Sections 379 of the IPC read with Sections 39 and 44(c) of the Indian Electricity Act.

3. Heard the learned Counsel for the applicant/original accused and the learned APP for the respondent State. Perused the entire record and proceedings with their able assistance.

4. Upon careful scrutiny of the evidence, it is evident that no cogent or reliable evidence has been adduced by the prosecution to establish that the applicant was, at the relevant time, in possession of or in control of the premises,

or that he was conducting the alleged hotel business under any authority purportedly granted by PW 3. Although reference is made to such authority, no documentary evidence like agreement or license was produced and proved during the trial. In the present case, the prosecution has failed to prove that the applicant was the consumer or occupier responsible for the meter at the relevant time. Furthermore, the record discloses that the meter box was not kept under lock and key, thereby rendering the possibility of access by third parties plausible. The prosecution has not demonstrated compliance with the mandatory safeguards and procedural requirements governing inspection, seizure, sealing and testing of electricity meters. Significantly, no independent or panch witness has been examined in support of the alleged seizure of the electricity meter. The evidence led is thus insufficient to conclusively establish tampering attributable to the applicant.

5. In view of the aforesaid infirmities, the impugned order dated 10 January 2005 passed by the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai, in CC No.111/P/2003; and the judgment

and order dated 11 June 2005 passed by the learned Additional Sessions Judge, Mumbai, in Criminal Appeal No.43 of 2005, are quashed and set aside.

[R.N.Laddha, J.]