HC-KAR

NC: 2026:KHC:60318
CRL.A No. 1299 of 2015

CNR: KAHC010449282015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1299 OF 2015 (C)

BETWEEN:

1. SRI HANUMANTHA
   SON OF APPAIAH,
   AGED ABOUT 40 YEARS,
   RESIDING AT VOLLURU VILLAGE,
   PAVAGADA TALUK,
   TUMKUR DISTRICT-572101.

…APPELLANT

(BY SRI. UDAY KUMAR REDDY B.R., ADV. FOR
SRI. ABHINAY Y. T., ADV.)

AND:

1. STATE
   BY VIGILANCE, BESCOM,
   TUMKURU-572101.

…RESPONDENT

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

(BY SRI. K. NAGESHWARAPPA, HCGP.)

CRL.A. FILED U/S.374(2) CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED 05.09.2015 PASSED BY THE I ADDL. DIST. AND S.J., TUMAKURU IN SPL.C.NO.145/2012 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 135 OF ELECTRICITY ACT.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

HC-KAR

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ORAL JUDGMENT

Appellant has preferred this appeal against the judgment of conviction and sentence dated 05.09.2015 passed in Special Case No.145 of 2012 by the I Additional District and Sessions Judge, Tumakuru (for short, the "trial Court").

2. Brief facts leading to this appeal are that the Inspector of police, BESCOM Vigilance Cell Police Station, Tumakuru filed Charge-sheet against the accused for the offence punishable under Section 135 of Electricity Act, 2003. It is alleged by the prosecution that on 17.08.2011 at about 1:45 pm, complainant along with the Inspector of Police, BESCOM Vigilance Cell and staff, visited the workshop belonging to the accused at Vollur Village. It was found the accused got unauthorised electric connection to his workshop from the main electrical line belonging to BESCOM and committed theft of 1.2 KW electricity and caused loss to BESCOM in an extent of

Rs.17,338/-. Thus, the accused has committed the alleged offence.

3. Upon hearing on charges, the trial Court has framed charges for the alleged commission of offence. The same were read over and explained to the accused. Accused pleaded not guilty and claimed to be tried. To prove the guilt of accused, the prosecution has examined three witnesses as PWs 1 to 3 and marked seven documents as Exhibits P1 to P7 and one material object. On closure of prosecution side evidence, statement of the accused under Section 313 of CrPC was recorded. Accused has totally denied the prosecution evidence appearing against him however, he did not choose to lead any defence evidence on his behalf. Having heard the arguments on both sides, the trial Court convicted the accused for offence and Section 135 of Electricity Act and sentenced to pay fine of Rs.52,014/- and in default of payment of fine, to undergo simple imprisonment for one and half years. Being agreed by the judgment of

conviction and sentence, the appellant has preferred this appeal.

4. Sri Udayakumar Reddy B.R., appearing for Sri Abhinay Y.T., for the appellant would submit that the prosecution has not produced any document to establish the fact that the accused was running the workshop in the month of August 2011. In the absence of any document/photograph establishing the fact that the Flour Mill was indeed being run by the appellant, the trial Court has erred in convicting the appellant. The prosecution has failed to examine any of the alleged major witnesses in order to establish their case. PWs1 to 3 are official witnesses and the order of sentence passed by the trial Court is solely on the basis of interested witnesses and is therefore liable to be set aside. On all these grounds, it is short for allowing the appeal.

5. As against this, Sri K Nageshwarappa, learned HCGP appearing for the State, would support the

impugned judgment or conviction and order on sentence and submit that the trial Court has appreciated the evidence on record in its proper perspective and has rightly convicted the accused. The same does not call for interference in this appeal and accordingly sought for dismissal of the appeal.

6. Having her arguments on both sides and on perusal of materials placed before this Court, the following points, would arise for my consideration:

1. Whether the applicant has made out a ground to interfere with the impugned judgment of conviction and order on sentence?

2. What order?

7. My answer to the above points are:

Point No.1: in the affirmative;
Point No.2: as per final order.

Regarding Point No.1:

8. It is alleged by the prosecution that the accused has got unauthorised electrical connection to his workshop without obtaining the authorised power connection of the BESCOM and has caused loss to the tune of Rs.17,338/- to BESCOM. Thus the accused has committed the offence. To prove the guilt of the accused, prosecution has examined three witnesses has PWs1 to 3 and marked nine documents as Exhibits P1 to P9 and one material object.

9. PW1-Chowdappa is the Junior Engineer of BESCOM at Nagalamadike Section. He has deposed that on 17.08.2011, the Vigilance Official took him to the tile-shed belonging to the accused where accused was running workshop with the help of 1HP drilling machine and 2 bulbs of 200 watts. When inspected, it was found that the accused got unauthorised connection from the electrical pole by using 50 feet three core wire. Then he launched complaint to the police as per Exhibit P3.

10. PW2-Narasimha, Secretary of Mangalawada Grama Panchayat, has deposed that the accused has not obtained any license to run the workshop and he has issued the certificate as per Exhibit P5.

11. PW3-Uma Shankar B, has deposed that on 17.08.2011, he took the Section Officer of Nagalamadike and others to Vollur Village and inspected the workshop belong to the accused. He has further deposed that PW1 prepared mahazar as per Exhibit P1 and seized MO1. During the investigation, he recorded the statement of witnesses.

12. On careful examination of the entire material on record, it is crystal-clear that the investigating officer has not produced any document to show that the accused was running the workshop in Vollur Village. Katha extract or assessment extract pertaining to the premises of the workshop is not produced. Investigating officer has not explained anything as to non-production of these material

documents before the Court. Mahazar Exhibit P1, does not reveal as to the assessment number or Khata number of the workshop. The neighbours of the disputed workshop also have not been examined before the Court. When the prosecution has failed to prove that the accused is the owner of the workshop, the question of committing theft of electrical energy, as alleged by the prosecution, does not arise. The trial Court has not properly appreciated the evidence in accordance with law and facts and the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt. Hence, I answer Point No.1 in the affirmative.

Regarding Point No.2:

13. For the reasons aforestated, I proceed to pass the following:

O R D E R

i. Appeal is allowed;

ii. Judgment of conviction and order on sentence dated 05.09.2015 passed in Special Case No.145 of 2012 by the I Additional District and Sessions Judge, Tumakuru, is set aside;

iii. Accused is acquitted of the offence under section 135 of Electricity Act, 2003;

iv. The trial Court is directed to refund the fine amount, if any deposited by the Appellant;

Registry is directed to send the copy of this judgment along with TCR to the concerned Court.

Sd/-
(G BASAVARAJA)
JUDGE

LNN
List No.: 1 Sl No.: 80