



2026:DHC:1103



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 02nd December, 2025**

Pronounced on: 09th February, 2026

+ **CRL.A.1662/2025**

BSES RAJDHANI POWER LTD.

Having its Registered Office At:

BSES Bhawan, Nehru Place, New Delhi-110019,

and

Its Corporate, Legal and Enforcement Cell,

at Near Andrews Gunj Market, New Delhi-110049

through its Authorised Representative

Mr. Pradeep Baisoya

.....Petitioner

Through: Mr. Sharique Hussain, Mr. Vikasdeep
Sharma and Ms. Anjani Suri,
Advocates.

Mr. Vijay Yadav, Mr. Rohit Kashyap
and Mr. Shubham Gupta, Advocates.

versus

DEEPAK THAKUR

S/o Vinod Thakur,

C/o Mazdoor Steel Works, RZF-1005, Ambedkar Marg,

Raj Nagar Part-II, Palam, New Delhi-110077.

.....Respondent

Through: Mr. Puneet Singh Yadav, Mr. Onkar
Roy and Mr. D.C. Kaushik,
Advocates for R-1.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

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1. Appeal under Section 378 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C'*), has been filed on behalf of the **Appellant/ BSES Rajdhani Power Ltd.** against impugned **Order dated 18.01.2021** of learned ASJ, Special Electricity Court, Dwarka, Delhi whereby the **Respondent No.1/ Deepak Thakur**, has been acquitted under **Section 135 of Electricity Act, 2003** in CC No.423484/2016.
2. The **brief facts**, as narrated in the Complaint, are that on 10.07.2008, a joint inspection team, comprising of Sh. Awadesh Rai (Sr. Manager Enforcement), Sh. J. Pal, (DET, Enforcement) and Sh. Ashok Kumar, (Field Executive, Enforcement), on directions of DGM, Enforcement, inspected the premises i.e. c/o Mazdoor Steel Works, RZF-1005, Ambedkar Marg, Raj Nagar Part II, Palam, New Delhi (*hereinafter referred to as 'the premises'*).
3. At the time of inspection of the premises, Respondent No.1 **Deepak Thakur** was found using electricity. He told the Inspection Team that **Accused No.2 Anil Kumar** was the owner of the premises in question. Inspection Team found that no electricity meter was existing at the site and Respondents were found to be indulging in direct theft of electricity illegally by directly tapping it from BSES LV Mains with the help of illegal wires, which was seized by the team *vide* Seizure Memo dated 10.07.2008 prepared at site. The Inspection Team assessed the total connected load running on direct theft supply, as 21.803 KW/NX/DT for non Domestic Purpose; and **Load Report** was prepared. Visual footage of the inspection was recorded by the photographer from M/s Arora Photo Studio.
4. Inspection Report, Meter details and Load Report in the Form of Assessment of Connected Load, as well as Seizure Memo, were prepared at



site. It was stated that the aforesaid illegal act of the Respondents has caused wrongful loss to the Complainant Company and wrongful gain to the Respondents and were thus acting dishonestly.

5. Thus, it was a case of direct theft of electricity and theft Bill for a sum of Rs.8,12,523/- with due date as 05.08.2008, as per DERC regulations and Tariff Order, was raised by the Complainant Company. However, Respondent failed and neglected to make the payment of the theft bill amount. Hence, the Company filed the Complainant in the Court of learned ASJ.

6. **Respondent Deepak Thakur** appeared in the Court, against whom **Notice under Section 251 Cr.P.C. for offence under Section 135 of Electricity Act, 2003, was framed.**

7. However, Accused No.2 Anil Kumar failed to appear and was declared Proclaimed Offender under Sections 82 and 83 Cr.P.C., *vide* Order dated 26.04.2011.

8. The Complainant examined *CW1 Pankaj Tandon, Assistant Manager (Legal), BSES Rajdhani Power Limited*, who had deposed that he had filed the Complaint Ex.CW1/A and it had his signatures at point A.

9. *CW2 Awdhesh Rai, Member of the Team* was examined.

10. Thereafter, on appreciation of the evidence, the Respondent was acquitted *vide* Judgment dated 10.07.2017. Thereafter, **Review Application** under Section 157 Electricity Act was filed on behalf of the BSES, which was allowed *vide* Order dated 19.12.2017 on the ground that there was a technical difficulty in viewing the content of the CD. Consequently, the ***Judgment dated 10.07.2017 was set aside.***



11. Prosecution, in support of its case, examined **PW-1 Sh. A. D. Rai, Sr. Manager, BSES RPL Division O & M Janak Puri, New Delhi**, who was the member of Inspection Team and proved the Inspection Report including the Sketch, Meter Details, Load Report, Seizer Memo, as Ex.CW-2/1 to 4 and Compact Disc as Ex.CW-2/5.

12. **PW-2 Sh. Jai Prakash**, Videographer from M/s Arora Photo Studio, deposed that he had prepared the video of the premises as well as of the theft of electricity and thereafter, handed over the camera along with along with cassette to Vivek Arora of M/s Arora Photo Studio who downloaded the data in the office computer and prepared the CD, which is Ex.CW-2/5.

13. **PW-3 Sh. Ajeet Chauhan**, deposed that Deepak Thakur was his tenant in the premises in question from 2005-2008 on a rent without electricity @ Rs.5,000/- per month. He was running welding work in the name of *Mazdoor Steel Works*. There was no one by the name of Anil, who was claimed to be the owner of the premises.

14. **PW-4 HC Rakesh Chand** deposed that he had visited the premises to execute the summons on the accused persons and recorded the statement of Sh. Ajeet Chauhan PW-3 as Ex.PW-3/A, wherein Ajeet Chauhan stated that Deepak Thakur was his tenant and running the workshop. PW-4 conducted the investigations and prepared the Report as Ex.PW-4/A.

15. **PW-5 Sh. Pankaj Tandon**, Sr. Manager (Legal), BSES, filed the Complaint in question Ex.CW-1/A.

16. Statement of Respondent Deepak Thakur was recorded under Section 313 Cr.P.C., wherein he stated that he never used the premises in question for fabrication work in the name of M/s Mazdoor Steel Works. He admitted



to be on rent in the premises @ Rs.5,000/- per month and paying the same to Sh. Satish Solanki, the owner of the premises. He stated that there was a meter in the premises in question and that there was no theft of electricity. He further stated that he was running a Tent house in the name of Sai Tent House.

17. In his defence, he examined three witnesses, **DW-1 Sh. Manish Sabharwal**, Assistant Finance Officer, Division Palam, Dabri More, BSES RPL, New Delhi, who proved the final Electricity Bill pertaining to CRN No.2660170616 of Ms. Sushila wife of Sh. Rajesh Kumar of the premises in question as Ex.DW-1/A. He also brought the consumer details of the CRN number and proved the same as Ex.DW-1/B and also proved the CRN Number, disconnection details and payment details and proved the same as Ex.DW-1/C to E.

18. **DW-2 Sh. Gyan Chand** deposed that he was doing the work of light, sound and DJ and knew Respondent Deepak Thakur for the last 10-12 years, as he has been working with him as a Contractor. He deposed that Deepak Thakur runs his business from the premises belongs to one Sh. Satish Solanki.

19. **DW-3 Sh. Manoj Kumar** deposed that he knew Respondent Deepak Thakur for the last 10-11 years, as he supplied the Stewart/Waiter to him, in running his business of tent house.

20. **Learned ASJ considered** the testimony of all the witnesses and observed that there was no evidence to connect the Respondents with the alleged commissions of offence. No public person was joined in the investigations to prove that the meter was segregated and dishonest



abstraction of electricity was not established. It was further concluded that there was no evidence to show that Respondents were responsible for committing the direct theft of the electricity. **Therefore, benefit was given to Respondent, who was acquitted vide impugned Order dated 18.01.2021.**

21. *Aggrieved by the aforesaid Order of acquittal, present Appeal has been filed, **challenging the impugned Order on the ground** that it is against the provisions of law and the Electricity Act and is based on conjectures and surmises, as there was cogent /material evidence on record, to prove that the Respondents were indulging in the direct theft of the Electricity, which was overlooked.*

22. The mode of theft of electricity as well as the connected load showing the fabrication work being run from the premises in question, display board of the shop written as Mazdoor Steel Works, Proprietor Deepak Thakur along with his Mobile Number and all illegal wires going to the roof top of the premises, were all recorded in the videography contained in the CD, Ex.CW-2/5, which have all be overlooked.

23. Respondent /Accused Deepak Thakur, on the one hand stated that he was not using the premises, but on the other hand, admitted to the extent that he used to pay the rent @ Rs.5000/- per month for the premises in question. It is crystal clear that he was using the inspected premises and had given false statement.

24. He claimed himself to be the tenant of Sh. Satish Solanki, who was never examined as witness, in support of the case.



25. Learned Trial Court, therefore, erred in relying on this record. *PW-3 Ajeet Chauhan* proved that Respondent / Deepak Thakur was tenant running fabrication / welding work in the name of Mazdoor Steel Works. *PW-3* in his cross-examination stated that the said premises was temporally constructed and was let-out for godown purposes. There was no electricity meter installed at the premises.

26. *DW-1 Sh. Manish Sabharwal*, Assistant Finance Officer, Division Palam, Dabri More, BSES RPL, New Delhi, who was summoned by Respondent, had produced the record and other documents as *Ex.DW-1/A to E*, which were in respect of the some other electricity connection of some other premises. Furthermore, this Connection was obtained on 19.12.2008, which was after the inspection on 10.07.2008.

27. It has not been considered by the learned Trial Court that Respondent No.1 /Accused had produced the documents before this Court, in respect of a meter bearing CRN No.2660170616, installed at the premises. However, bare perusal of the documents reflects that the aforesaid meter does not pertain to the premises in question and is not in the name of Respondent/ Accused Deepak Thakur. No documents have been placed on record to prove that he was the user of the premises.

28. *PW-1 Sh. A. D. Rai*, Sr. Manager, BSES RPL Division O & M Janak Puri, New Delhi, in his cross-examination has duly proved that the electricity theft was being committed by Respondent/ Deepak Thakur. His testimony was consistent and cogent, who proved the direct theft of electricity being committed by Respondent. This testimony has also been overlooked and it has not been appreciated that the witnesses examined by



the Appellant Company were not able to show any infirmity in the evidence that was produced by the Appellant.

29. Reliance is placed upon Raju vs. BSES Rajdhani Power Ltd., 2016 (231) DLT 152]; Punjab State Electricity Board and Ors. vs. Ashwani Kumar, (2010) 7 SCC 569; Aditi Engineering Pvt. Ltd. and Ors. vs. State & Ors., 2018 (3) JCC 1448; Sushil Sharma vs. BSES Rajdhani Power Ltd. & Ors., 2011 (1) JCC 665; and Hiten P. Dalal vs. Bratindranath Banerjee, (2001) 6 SCC 16.

30. Moreover, Respondent/ Deepak Thakur has not placed on record the Bills of the last five years, even of one month, to show that the electricity was being consumed through duly sanctioned meter of the Appellant Company. Appellant has proved beyond doubt, that direct theft of electricity was being committed by Respondent No.1. Therefore, impugned **Order dated 18.01.2021** is liable to be set aside.

31. Respondent/ Deepak Thakur, in his *Reply to the Appeal*, has taken preliminary objection that Inspection Team, which carried inspection on 10.07.2008, was under obligations to carry a Written Authority signed by designated officer of the licensee, as per Regulations 25(i) of Delhi Electricity Regulatory Commission (Performance Standards-Metering and Billing) Regulations, 2002, which they failed to do and no such authority was placed on record.

32. Respondent/ Deepak Thakur had not been identified by PW-1 Sh. A. D. Rai, Sr. Manager, BSES RPL Division O & M Janak Puri, New Delhi, who was Team Leader and only witness examined by the Complainant Company to prove the inspection. He deposed that the person, whom the



Inspection Team met, disclosed his name as Anil and told that the premises was being used by one Deepak Thakur as a tenant, however, Identity Card of Anil was not taken, to clarify his identity. PW-1 did not remember, whether Deepak Thakur was present on the spot or not. He could not tell the number of workers working in premises.

33. There being no proper identification of Respondent/ Deepak Thakur on the site; he cannot be connected with the alleged offence. No public witness was joined in the inspection.

34. Furthermore, PW-1 Sh. A. D. Rai, Sr. Manager, BSES, in his cross-examination, had admitted that Anil (to whom the Inspection Team met) refused to sign the Reports. Inspection Team failed to comply with the mandatory regulations during inspection, which goes against the Complainant Company.

35. It is further submitted that as per the Complaint, there were five members of the Complainant Company in the Inspection Team, out of which only two, i.e. PW-1 Sh. A. D. Rai, Sr. Manager and PW-2 Sh. Jai Prakash, Videographer from M/s Arora Photo Studio, were examined. Inspection Report, Meter details and Load Report, etc. were signed by other members of Inspection Team also. There is no explanation for non-examination of all the members of the Inspection Team.

36. Moreover, these Reports / Documents were never pasted at the site of the premises, as prescribed in the provisions of Regulation 52(ix) of Delhi Electricity Supply Code and Performance Standards Regulation, 2007.

37. Learned Trial Court, after close scrutiny of the CD and the testimony of the witnesses, rightly concluded that offence of direct theft of electricity



had not been established. Admissions made by PW-1 Sh. A. D. Rai, Sr. Manager, BSES, in his cross-examination, completely exonerated Respondent/ Deepak Thakur, as he was not able to identify him as the person, who was present on the spot.

38. On merits, all the assertions made in the Appeal have been denied. It is reiterated that Respondent No.1 / Deepak Thakur has been rightly acquitted by learned ASJ, Special Electricity Court, *vide* impugned **Order dated 18.01.2021** and present Appeal is without merit.

Submissions heard and record perused.

39. As per the Complainant, an Inspection was conducted on 10.07.2018 at 12:35 P.M by the Team comprising of PW1 Sh. A.D. Rai, Sr. Manager, BSES RPL, Sh. Jatinder Pal-DET, Sh. Ashok Kumar-FE, Sh. Vinod Kumar Lineman and Sh. Jai Prakash Videographer at the Suit premises. During the Inspection, the premises were found to be used by the ***Respondents Deepak Thakur and Anil***, for fabrication work in the name of M/s Mazdoor Steel Works. There was no electricity meter and direct theft was being committed by tapping it directly from BSES L V Mains with the help of illegal wires. The total connected load of 21 KW (approx.) was found in the premises. The entire inspection was video graphed by PW-2 *Sh. Jai Prakash* Photographer and the CD so prepared is Ex.Cw2/5. The illegal wires were seized *vide* Seizure Memo Ex.CW2/4. The Inspection Report Ex.CW2/1 was prepared which was duly signed by them, though the person Anil Kumar who was found available on the spot, refused to sign the Inspection Report.

40. The factum of Inspection is also proved by PW2 Jai Prakash Photographer who was part of the Inspection Team and had videographed



the entire scene and CD Ex.2/5 was prepared. However, it cannot be overlooked that such an electronic evidence required a Certificate under Section 65B Indian Evidence Act to be admissible in evidence, but no Certificate has been proved. Therefore, this CD evidence has to be necessarily discarded.

41. The first thing which emerges from the cross-examination of PW1 A.D. Rai is that they had met Anil Kumar and Deepak Thakur on the spot, while as per the Complaint the name of the person using the electricity was disclosed as *Deepak Thakur*, while the accused Anil was disclosed as the owner of the premises in question. PW1 Sh. A.D. Rai, however, deposed vaguely in his examination-in-chief that when they conducted the Inspection, it was found that the premises were being used by Deepak Thakur and that fabrication work in the name of M/s Mazdoor Steel Works was being carried out and the owner of the premises was one *Anil S/o Jagjeet Singh*.

42. PW1 in his cross-examination while reiterated that the welding work was going on in the premises and they had met one person who had disclosed his name as Anil, the owner of the property and that premises were being used by Deepak Thakur, but he admitted that they did not check the Identity Card of Anil to verify if he was in fact Anil or not. He further deposed that he cannot recollect whether Deepak Thakur was present there or not.

43. From his Complaint and the testimony of PW1, it emerges that at the time of Inspection, the Inspection Team met one person who disclosed his name as Anil. There is no cogent evidence that Deepak Thakur was found



present at the time of Inspection. Moreover, this Anil subsequently has been found to be non-existent.

44. While the Complainant asserted that he disclosed at the time of the Inspection, that he was the owner of the property, but PW3 Ajeet Chouhan in his testimony, had deposed that he was the owner of the property in question. There is no clear identification either of the person who was present on the spot or that he was indeed the owner of the property in question.

45. The alleged premises are sought to be connected with the welding work, from the testimony of PW3 Ajeet Chouhan who deposed that Deepak Thakur was his tenant and was running the welding work in the name of M/s Majdoor Steel Works. Pertinently, in his cross-examination, he clarified that the Suit premises had been let out for go-down purposes and there was no electricity meter installed in the premises. An earlier raid was conducted in his name and he had paid the penalty. He further deposed that the Accused *used to do welding work in the plot opposite to the rented premises* and he had not given any electricity facility to him. He admitted that for the welding work, electricity was required.

46. Thus, what emerges from his testimony is only that the premises, which was a temporary go-down, had been let out to Deepak Thakur, but the welding work was not being done from the Suit premises. It only establishes that though Deepak Thakur was doing the welding work, but it was from the plot opposite the rented premises. There is a huge discrepancy in the Complaint of the theft being committed by Deepak Thakur.



47. It is also pertinent to observe that according to the Complainant, there was a Board installed outside the premises having the name Mazdoor Steel Work with the name of Deepak and his mobile number. However, merely because the Board was installed outside the rented premises, cannot be a cogent proof of the premises being used for the welding purpose, especially in the light of admission made by PW3 Ajeet Chouhan in his cross-examination.

48. Another aspect of relevance is that the Seizure Memo *vide* which the wires etc. which were used for illegal extraction of electricity was seized, had the signatures of one Vinod Kumar as a witness. However, this witness who was most material to prove the Inspection and the alleged electricity theft, had not been examined by the Complainant. In fact, there is no explanation about who this Vinod Kumar was.

49. The Appellants have relied upon Mukesh Rastogi vs. North Delhi Power Limited, MANU/DE/9575/2004 to assert that where the Inspection was carried out by a designated Officer under the Notification dated 31.03.2004, and the Members of the Inspection Team visited the site and had found the electricity being stolen, are competent witnesses to depose in the Court about the manner in which the theft of electricity was being done.

50. However, this Judgment is of little assistance because it is not the competence of PW1 A.D. Rai which has been questioned, but it has been found that his evidence was not sufficient to establish the identity of Respondent as being the person committing the theft of electricity.

51. It may thus, be concluded that there is no evidence beyond reasonable doubt, that the welding work was indeed being done from the tenanted



premises. It is also proved that Deepak Thakur, the Respondent was not present at the time of Inspection when the alleged theft was detected.

52. The Respondent though had tried to claim that there was an Electricity Meter installed at the Suit premises, but the Electricity Bill Ex.DW1/A and Ex.DW1/B show that it is not in the name of Anil Kumar, but one Sushila, wife of Rajesh Kumar who was having a shop at the Suit premises. Also, from the perusal of these two documents, it emerges that the date of connection was 19.11.2018 which is after the date of Inspection i.e. 10.07.2018. Some tenant or the owner may have got the Electricity connection in respect of one shop of the Suit premises, but it is a Connection taken after the Inspection and is of no assistance to the Respondent to support his assertion that there existed an Electricity Meter in the Suit premises.

53. However, the question of considering the defence of the Respondent would have arisen only if the Prosecution/ Complainant was able to prove its case against the Respondent. As has already been observed above, *it has not been proved beyond reasonable doubt that Respondent Deepak Thakur was indeed running the business of welding from the Suit premises or it was he who was committing the theft of electricity. The benefit of doubt has been rightly extended by the learned ASJ to the Respondent to acquit him.*

54. There is no merit in the Appeal, which is hereby, **dismissed**.

55. The Appeal stands disposed of along with the pending Application(s).

(NEENA BANSAL KRISHNA)
JUDGE

FEB RUARY 09, 2026/R/VA