

(2019) 03 CHH CK 0257

In the Chhattisgarh High Court

Case No : Criminal Appeal (CRA) No. 59 Of 2009

Radha Kishan Agrawal

APPELLANT

Vs

Junior Engineer, Chhattisgarh State Electricity Board,
Kharsiya

RESPONDENT

Date of Decision : 29-03-2019

Acts Referred:

Electricity Act, 2003 — Section 135, 154(5), 156
Code Of Criminal Procedure, 1973 — Section 374

Citation : (2019) 03 CHH CK 0257

Hon'ble Judges : Ram Prasanna Sharma, J

Bench : Single Bench

Advocate : H.B. Agrawal, Meera Jaiswal, Vijay Bahadur Singh

Final Decision : Partly Allowed

Judgement

Ram Prasanna Sharma, J

1. This appeal is preferred under Section 156 of the Electricity Act, 2003 (for short "the Act, 2003") read with Section 374 of the Code of Criminal Procedure, 1973 against judgment dated 02.01.2009 passed by Special Judge (Electricity Act, 2003) Raigarh (C.G.) in Special Case No. 150/2007, wherein the said court convicted the appellant for commission of offence under Section 135 of the Act, 2003 and sentenced to undergo R.I. till rising of court and fine of Rs. 30,000/- with further default stipulations and imposed civil liability of Rs. 20,000/-.

2. The appellant was tried for the offence in question with an allegation that he has joined the electricity connection illegally which was disconnected and thereby he has committed theft of electricity and caused damage for Rs. 9764/- to the Electricity Board. A complaint was filed and after hearing, the trial court convicted the appellant as mentioned above.

3. Learned counsel for the appellant submits as under:-

(i) Connection of electricity was not proved by the officer of Electricity Board,

therefore, finding of the trial court regarding illegal connection by the appellant is not proper.

(ii) The trial court imposed civil liability of Rs. 20,000/-, but the appellant has already paid the amount of bill supplied to him, therefore, finding arrived at by the trial court is liable to be reversed.

4. On the other hand, learned State counsel submits that the finding arrived at by the trial court is based on relevant material placed on record and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.

5. From evidence of Junior Engineer- H.P. Patel (PW-1), Executive Engineer- Bhushan Lal Verma (PW-2) and Lineman- Krishna Bahadur (PW-3), it is established that the connection of electricity supply was disconnected by the authorities, but the appellant direct hooked the wire from LT line and consumed electricity. The length of wire which was connected was 5-5 meter which was seized by the officers and one panchnama was prepared. After assessment, it is found that the Electricity Board sustained a loss of Rs. 9764/-.

6. Version of all the witnesses is unrebutted during cross-examination and there is nothing to say that the appellant has been falsely roped with the charge in question and there is nothing to disbelieve version of the prosecution witnesses.

7. Looking to the entire record, the trial court found case of theft of energy and after reassessing the same, this Court has no reason to record contrary finding. Accordingly, finding of the trial court regarding commission of offence by the appellant under Section 135 of the Act, 2003 and his conviction are hereby affirmed. The fine amount was not less than three times of the electricity consumed, therefore, the fine amount to the tune of Rs. 30,000/- is not liable to be interfered with.

8. So far the civil liability imposed by the trial court under Section 154 (5) of the Act, 2003 is concerned, the trial court has not assessed on period of theft of energy. In absence of assessment, bill amount of Rs. 9764/- shall be the civil liability and the appellant is under obligation to clear the bill of Rs. 9764/- as civil liability. If the bill amount is paid, there shall be no recovery.

4. With these modifications, the appeal is partly allowed.