
(2014) 12 DEL CK 0034

In the Delhi High Court

Case No : Crl. A. 1137/2013, Crl. MB 1805/2013 and Crl. MA 2604/2014

Shamsuddin

APPELLANT

Vs

BSES Rajdhani Power Ltd.

RESPONDENT

Date of Decision : 17-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 374
Electricity Act, 2003 — Section 134(5) 135

Citation : (2015) 6 AD 750

Hon'ble Judges : Sunita Gupta, J

Bench : Single Bench

Advocate : Rahul Thakral, Proxy Counsel and Party-in-Person, Advocate for the Appellant; Deepak Pathak, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Sunita Gupta, J.

1. The appellant - Shamsuddin has preferred this appeal under Section 374 of the Code of Criminal Procedure, 1973 challenging the impugned judgment dated 29.07.2013 passed by learned Special Electricity Court, Dwarka, New Delhi whereby the appellant was convicted under Section 135 of the Electricity Act, 2003 in Complaint Case No. 679/10/08 and order on sentence dated 31.07.2013 whereby he was sentenced to pay fine of Rs. 4,20,000/-, in default to undergo simple imprisonment for a period of six months. As per the provisions of Section 134 (5) of the Act, civil liability of Rs. 2,76,451/- was also fixed on account of loss suffered by the complainant company due to the act of the convict. The complaint was filed against the appellant on the allegations that on 11.03.2008 at 12.30 pm, a joint inspection team headed by Mr. G.L. Meena - Manager of the complainant company inspected the premises bearing number A-70, Gali No. 3, Mahavir Extension, Part-II, 40 Feet Road, New Delhi-45. The accused were the users of the inspected premises. The accused No. 2 was also the owner of the inspected premises. No electricity meter was found installed in the premises. The

accused were indulging in direct theft of electricity by tapping the electricity from LV Mains of the complainant with the help of wires which were further connected to the connected load of the inspected premises. A connected load of 7.760 KW was found for non-domestic purposes. An assessment bill for theft of electricity was raised against the appellant which remained unpaid as such the complaint was filed.

2. During the pendency of appeal, the matter was referred to Delhi High Court Mediation & Conciliation Centre for making an endeavour for an amicable resolution of the disputes. A settlement was arrived at between the parties on the following terms:

"(i) Whereas Crl. A. No. 1137/2013 was filed by the First Party against the Second Party for quashing of judgment dated 29.07.2013 and sentenced/fine dated 31.07.2013 passed by Shri Suresh Kumar Gupta, Additional Sessions Judge, Electricity Court, Dwarka, Delhi in Complaint No. 679/10/08 titled as "BSES Rajdhani Limited v Shamsuddin & Anr" whereby the Ld. Additional Sessions Judge fixed the civil liability of Rs. 2,76,451/- and a fine of Rs. 4,20,000/- in the matter.

(ii) The First Party has deposited a sum of Rs. 1,30,000/- with the Second Party towards the civil liability.

(iii) That the case has been settled in full and final settlement for a sum of Rs. 2,48,806/- towards the civil liability, the parties agree that in addition to the said sum of Rs. 1,30,000/-, the First Party will pay the Second Party a sum of Rs. 1,18,806/-. The said sum of Rs. 1,18,806/- will be paid by the First Party to the Second Party in cash in five instalments as under:--

(a) A sum of Rs. 25,000/- shall be paid by the First Party to the Second Party on 20.04.2014.

(b) A sum of Rs. 25,000/- shall be paid by the First Party to the Second Party on 20.05.2014.

(c) A sum of Rs. 25,000/- shall be paid by the First Party to the Second Party on 20.06.2014.

(d) A sum of Rs. 25,000/- shall be paid by the First Party to the Second Party on 20.07.2014.

(e) A sum of Rs. 18,806/- shall be paid by the First Party to the Second Party on 20.08.2014.

(iv) That the second party has no objection to the waiver of the fine of Rs. 4,20,000/- imposed on the first party and shall not insist for payment of the said fine.

(v) Whereas the second party has no objection, if the present Crl. A. No. 1157/2013 is disposed of and judgment dated 29.07.2013 and sentence/fine

dated 31.07.2013 passed by Shri Suresh Kumar Gupta, ASJ, Electricity Court, Dwarka Courts, Delhi in Complaint No. 679/10/08 titled as "BSES Rajdhani Limited v Shamsuddin & Anr. "is set aside/compounded/waived after the full and final payment towards civil liability qua first party as aforesaid."

3. It is submitted by the appellant that he had deposited the amount as per settlement, which fact has been verified by Counsel for the respondent - BSES RPL. The respondent -BSES RPL has also given no objection to the waiver of fine of Rs. 4,20,000/- imposed upon the appellant. Keeping in view all the facts and circumstances, the appeal is accepted in terms of settlement arrived at between the parties. Since the offence alleged against the appellant stands compounded, the impugned judgment and order on sentence dated 29.07.2013 and 31.07.2013 are set aside and the appellant is acquitted of the offences with which he was charged with.

The appeal as well as all pending applications stand disposed of.

Trial Court record be returned alongwith a copy of this order.