



2026:DHC:1685



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

% ***Judgment Reserved on: 23.02.2026***
Judgment pronounced on: 26.02.2026

+ CRL.A. 49/2018 & CRL.M.A. 890/2018

MUNNA

.....Appellant

Through: Mr. Ashu Sharma, Advocate.

versus

THE STATE & ANR.

.....Respondents

Through: Mr. Utkarsh, APP for the State with
SI Vikram Singh, P.S. Welcome.
Mr. Sharique Hussain, Advocate for
Respondent no. 2.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374 of the Code of Criminal Procedure, 1973 (the Cr.P.C), the sole accused in SC No. 14/17 (Old No.1643/16) on the file of the Additional Sessions Judge, Special Electricity Court, Karkardooma Courts, New Delhi, assails the judgment dated 29.11.2017 as per which



the accused has been convicted for the offence punishable under Section 135 of the Electricity Act, 2003 (the Act).

2. The prosecution case is that, on 21.12.2006 at about 05:05 AM, an inspection was conducted by a team of officials of the Complainant Company led by R.P. Aggarwal (PW3) – Assistant Manager at premises No. L-21, Janata Mazdoor Colony, Welcome, Delhi. During the said inspection, the accused was found indulging in direct theft of electricity by illegally and dishonestly abstracting electricity from the BSES YPL LT MP boxes and was further supplying it to 229 dwelling units, from whom the accused was collecting money. The connected load was found to be 552.564 KW/DX/DT for domestic use.

2.1. As it was a case of direct theft of electricity, a theft bill was raised to the tune of ₹ 94,28,504/- against the accused, which was served on him. Later, Ext. PW1/A Complaint was filed alleging commission of the offences punishable under



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Section 135 of the Act and Section 379 of the Indian Penal Code, 1860 (the IPC).

3. Based on Ext. PW1/A Complaint, Crime No.711/2007 Welcome Police Station, that is, Exhibit PW7/B FIR, was registered by PW8, Assistant Sub Inspector (ASI). PW6, Investigating Officer conducted investigation into the crime and on completion of the same, the chargesheet/final report dated 14.12.2007 was submitted before the trial court, alleging the commission of the offences punishable under the aforementioned Sections.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court as per order dated 15.12.2008, is seen to have framed a Charge for the offence punishable under Section 135 of the Act, which was read over and explained to the accused, to which he pleaded not guilty.



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5. On behalf of the prosecution, PWs.1 to 8 were examined and Exts.PW1/A, PW2/A, PW3/A to PW3/D, PW3/E to PW3/H, PW5/A, PW6/A, PW6/C, PW6/D, PW7/A, PW7/B, PW8/A, PW8/B, PW8/C, and PW8/DA were marked in support of the case.

6. After the close of the prosecution evidence, the accused was examined under Section 313(1)(b) Cr.P.C. with respect to the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that he had been falsely implicated in the present case by one ASI Surinder Pandey in connivance with other police officials of Welcome Police Station as one of his friends, namely, Abid, had earlier got those police officials arrested by the CBI and on account of the said incident, they were in inimical terms with him and so has falsely implicated him in the present case. The accused further submitted that he and his



family members had also been implicated in another case under Section 307 IPC, in which case he was acquitted.

7. DW1 was examined on behalf of the accused. No documentary evidence was produced by the accused.

8. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 29.11.2017 held the accused guilty of the offence punishable under Section 135 of the Act and hence sentenced him to undergo simple imprisonment for a period of two years and to pay fine of ₹1,10,55,405/-, and in default of payment of fine, to undergo simple imprisonment for three months. He has also been directed to pay an amount of ₹73,70,270/-, towards civil liability. Aggrieved, the accused has preferred this appeal.

9. The learned counsel for the appellant/accused submitted that the prosecution failed to examine any of the persons to whom the accused was alleged to have supplied



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electricity. The prosecution has also failed to establish that the accused was the owner or in lawful possession of the premises where the inspection or raid was conducted. It was further submitted that Ext. PW1/A complaint dated 09.10.2007 was lodged nearly ten months after the inspection or raid conducted by the respondent, that is, on 21.12.2006, and such inordinate delay casts serious doubt on the prosecution case.

10. *Per Contra*, the learned counsel appearing on behalf of the respondent contended that the impugned judgment does not suffer from any infirmity warranting interference by this Court, as the trial court has duly considered each and every ground raised in the present appeal. It was further submitted that the prosecution has established its case that the accused had dishonestly abstracted electricity. Therefore, the onus shifted to the accused as contemplated under the third proviso to Section 135 of the Act. However, the accused has not discharged the



onus. Hence, there is no infirmity calling for an interference by this Court.

11. Heard both sides and perused the records.

12. The only point that arises for consideration in this appeal is whether the conviction entered and sentence passed against the appellant/accused by the trial court is sustainable or not.

13. I shall briefly refer to the evidence relied on by the prosecution in support of the case. The inspection/raid in this case is alleged to have taken place on 21.12.2006 at 5.05 PM.

14. PW3, Assistant Manager / Inspection team leader, deposed that, on 21.12.2006 he was posted in the Enforcement Department of BSES YPL at Karkardooma. On the said day at about 5.05 a.m., he along with a team of officers, namely, Deepak Kataria, Saurabh Kumar Sharma, Veerpal (PW2) and photographer Arunat conducted an inspection in Janta Mazdoor Colony, Welcome. During the inspection, it was found that



accused was indulging in direct theft of electricity by tapping supply from BSES LT MP boxes and supplying electricity to the residents of Janta Mazdoor Colony without the permission of BSES. On inquiry from the neighbours, it was revealed that the accused was supplying electricity in the colony and collecting money from consumers. The consumers receiving such supply were called to the spot and the area from where electricity was directly supplied was video graphed. The entire connected load of various houses was measured and the illegal wires connected to the mains were removed. Thereafter, PW4, their Manager was called to the spot, who seized the illegal wires removed by the team. Ex. PW 2/A seizure memo was prepared by Deepak Kataria under the supervision of PW4. PW3 deposed that he prepared Ex. PW/3 A to PW 3/D load report, Ex. 3/E to PW 3/G inspection report, and the Ex. PW 3/H meter detail inspection report at the spot. Though the neighbours were requested to join the inspection as witnesses,



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they refused. PW3 identified the CD containing the videography of the inspected premises dated 21.12.2006. At this juncture, the prosecutor sought the permission of the trial court to put leading questions to PW3 regarding the seizure of the case property. The request was allowed by the trial court. To a leading question as to who were the persons who had refused to sign Ext. PW2/A seizure memo, PW3 answered that the persons present at the time of inspection who had witnessed the inspection, had been requested to sign Ext. PW2/A seizure memo. However, they refused to do so and hence he made the endorsement - "refused to sign". PW3 further deposed that the said persons refused to disclose their names and addresses.

15. PW3 in his cross examination deposed that they had reached the inspected area before 5.00 a.m. and that no police official had accompanied the inspection team. There were 7 to 8 CISF personnel along with the inspection team. The area was inspected on the basis of information regarding theft of



electricity received by their manager. PW3 deposed that electricity was being stolen through a wire and was being distributed to the entire gali without any meter and that electricity was being supplied to 229 dwelling units. PW3 had asked the occupier of the said dwelling units, however, they refused to disclose their identity and name. PW3 admitted that at the time of inspection, the accused was not present at the site. But the users of the dwelling units informed him that the illegal wires belonged to the accused.

16. PW4, Manager, Enforcement deposed that on that day, while on duty, he received a phone call at about 4.30 a.m. from PW3 who informed him that a raid had been conducted at Janta Mazdoor Colony, Welcome, Delhi, where theft of electricity had been detected and that his presence was required at the site for seizure of the material used in the commission of theft and upon receiving the said information, he immediately proceeded to the spot. The materials used in the commission of theft,



namely 7 pieces of illegal single core aluminium rod wires of different lengths measuring 9 meters, 12 meters in two pieces, 10 meters, 5 meters, 6 meters and 7 meters, which had been removed from the pole, were seized. PW4 further deposed that the case property was kept in a plastic katta and sealed. PW4 deposed that Ex. PW 2/A seizure memo was prepared by a team member under his direction and supervision.

16.1. In his cross examination, PW4 deposed that he cannot say whether the person in whose premises the raid was conducted was a resident of L-21. According to him, it was for the inspection to ascertain the said fact. PW2 deposed that members of the public were present at the time when Ex. PW 2/A seizure memo was prepared. Though he had asked them to sign the seizure memo, they refused.

17. PW2, Lineman, a member of the inspection team supports the version of PW3.



18. PW8, Sub Inspector/ the investigating officer deposed that on 13.12.2007, PW3 produced a sealed plastic bag with the seal of BYPL Manager Enforcement containing the case property of the present case. He seized the same vide Ex. PW8/B seizure memo. PW8 further deposed that accused, also known as Bijliwala, who was wanted in the present case, was arrested by PW6. PW8 identified the accused present in Court. He also identified Ext. PW8/C CD and the video clipping contained in the same.

18.1. PW8 deposed that address of accused is – L-382, Janta Majdoor Colony. This was the address of the accused at the time of his arrest which has been mentioned in Ext.PW6/A arrest memo. PW8 further deposed that before that the accused is stated to have resided at L-21, Janta Majdoor Colony. PW8 could not say whether the accused had been residing at L-382 since the year 2000. According to him, the accused might be having both the aforementioned houses.



19. PW1, Manager Enforcement, BYPL, Shakti Kiran Building, who gave Ext. PW1/A complaint in his cross-examination, deposed that the complaint was lodged after about 10 months from the date of inspection as there is a departmental procedure for raising the theft bill, issuing notice to the consumer for payment and granting opportunity to him pay the theft bill. PW1 denied that the FIR had been lodged at the behest of Sh. S. B. Yadav, SHO, Welcome Police Station. PW1 deposed that he was unaware of any dispute existing between the accused and the said SHO prior to registration of the FIR.

20. As per Section 135(1)(a) of the Act, if any person dishonestly taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be, so as to abstract or consume or use electricity, is liable to be punished.



21. The testimony of PW2, PW3 and PW4 substantiates the case of direct tapping of electricity from the LT MP boxes, removal of illegal aluminium wires and preparation of contemporaneous inspection and load reports at the spot. The mere non-examination of local residents or beneficiaries, in the presence of documentary and physical evidence proved on record, does not by itself diminish the prosecution case.

22. As regards the question of ownership or possession of the premises, it is settled that for an offence under Section 135 of the Act, what is required to be proved is dishonest abstraction of electricity or involvement in such abstraction. Strict proof of title to the premises is not a *sine qua non* where evidence on record clearly indicates that the accused was abstracting and supplying electricity through illegal means.

23. With respect to the delay in lodging the complaint, PW1 explained that departmental procedure required raising of a theft bill and issuance of notice prior to initiation of criminal



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proceedings. In the presence of contemporaneous inspection documents and seizure of case property, such delay stands reasonably explained and does not, by itself, render the prosecution case doubtful. Moreover, the accused has not established that any prejudice was caused to him on account of the delay in lodging the complaint.

24. Further, a bare reading of the third proviso to Section 135 of the Act makes it evident that once abstraction or theft of electricity is proved, a presumption arises against the consumer that he has indulged in theft. Though such presumption is rebuttable, the onus lies upon the accused to establish that no theft of electricity was being committed at the premises. In the case on hand, the testimony of the prosecution witnesses to which I have already referred to substantiate the case of illegal tapping of electricity from the main line in the premises occupied by the accused. Their testimony has not been discredited in any way. Therefore, the burden shifted to the



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accused to rebut the statutory presumption contained in the aforesaid proviso. To prove the defence case, DW1 was examined.

25. DW1, by way of Ext. DW1/A affidavit, deposed that the accused has been residing in his neighbourhood at No. L-382, Janta Mazdoor Colony, Welcome, Delhi – 53 since the year 2000 along with his family members and that no raid had never been conducted by the electricity department at the aforesaid residence of the accused.

26. DW1 has only deposed that no raid was conducted at L-382, Janta Mazdoor Colony, Welcome, Delhi – 53, which is stated to be the residence of the accused. DW1 does not have a case that no raid was conducted at No. L-21, Janta Mazdoor Colony, Welcome, Delhi – 53. The prosecution case is that the said premise was under the use and possession of the accused at the time of the raid and that it was the accused who was supplying electricity to the local residents by directly tapping



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electricity from the main line. If the accused was a permanent resident of the address as deposed to by DW1, he could certainly have produced evidence to substantiate the same. However, no such evidence has been produced before the Court. As noticed earlier, nothing was brought out to discredit the testimony of the prosecution witnesses and, therefore, I find no reason(s) to disbelieve their version.

27. That being the position, I find no infirmity in the findings of the trial court warranting an interference by this Court.

28. In the result, the appeal *sans* merit is dismissed.

29. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

FEBRUARY 26, 2026/kd