

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 473 of 2008**

Chhattisgarh State Electricity Board, through Assistant Engineer,  
Koda Tarai, District Raigarh, CG.

---- Applicant

**Versus**

1. State of Chhattisgarh through District Magistrate Raigarh, CG.
2. Lekh Ram S/o Naththu Satnami R/o. Puchapara, P.S. City Kotwali,  
Tahsil & District Raigarh, CG.

---- Respondents

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For Applicant	: Shri Amiyakant Tiwari, Advocate
For State/Respondent No.1	: Shri Aman Kesharwani, PL
For Respondent No. 2	: None

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**Hon'ble Smt. Justice Vimla Singh Kapoor**

**Order On Board**

**30/04/2019**

FIR (EX. P-3) registered against the accused/respondent on the basis of complaint Ex. P-3 made by R. Deyashi (PW-1) goes to show that by taking illegal connection from the electric pole he committed theft of 1830 watts of electricity and thus caused a loss of Rs. 15,015.45/-. After drawing *Panchnama* and effecting seizure of various electrical instruments including 250 ft. of electric wire the charge-sheet was filed against the respondent/accused under Section 135 of the Electricity Act, 2003.

2. Learned Special Judge, however arrived at the conclusion that no case under Section 135 of Electricity Act is made out against the respondent/accused and thus acquitted him of the charge leveled against him. Hence this revision against the judgment of acquittal.

3. Counsel for the applicant/Electricity Board submits that acquittal of the respondent/accused is not in consonance with the evidence available on record and, therefore, erroneous findings recorded by the Courts below are liable to be set aside by allowing this revision.

4. Counsel for the respondent however supports the judgment impugned and submits that acquittal of the respondent/accused has been recorded on the basis of material collected by the prosecution and, therefore, there is no need to take a view other than the same.

5. Heard counsel for the parties and perused the material on record.

6. Though the allegation of theft of electricity worth Rs. 15,015.45/- has been made against the respondent/accused yet it remains a mystery that the house where such theft is said to have been committed indeed belonged to the respondent/accused because no document establishing his possession over that has been filed by the prosecution. Further, even the bill showing the loss caused by the respondent/accused to the Electricity Board does not bear the signature of authorized officer and in the absence of the same the loss attributed to the respondent/accused can not be made a basis for conviction of the respondent/accused. Furthermore, the evidence of the witnesses carries number of contradictions and being so no definite conclusion as to the complicity of the accused in crime in question can be drawn. Even otherwise, it is a settled legal position that if the material available on record gives rise to two possible and plausible views, the one beneficial to the accused has to be preferred. Thus this Court does not find any illegality or infirmity in the judgment impugned acquitting the respondent/accused of the charge leveled against him and being so it is hereby maintained.

7. Revision thus stands dismissed in view of the observations made above.

Sd/-

**(Vimla Singh Kapoor)**

**Judge**