IN THE COURT OF SH. PRASHANT KUMAR,
ADDITIONAL SESSIONS JUDGE, ELECTRICITY COURT,
DISTRICT NORTH WEST, ROHINI COURTS, DELHI

CNR No. DLNW010015012020
Ct. Cases/178/2020
PS: MANGOLPURI
U/S – 135 OF THE ELECTRICITY ACT, 2003

Tata Power Delhi Distribution Limited
ERSTWHILE (NORTH DELHI POWER LIMITED)
Regd. Office At.
Gird Substation Building, Hudson Lines, Kingsway Camp,
Delhi -110 009
Also at
EAC, HRDI, Sector -3, Rohini, Delhi – 110 085

Through Authorised Representative
Sh. B. B. Gogia

......Complainant

Vs.

Kumari Devi
W/o Sh. Ram Kewal.

Inspected At:-
RZ-254, Phase -I,
Karan Vihar, Delhi – 110 086

.... Accused

Date of Institution	06.02.2020
Date of Reserving judgment	15.04.2026
Date of Judgment	15.04.2026

J U D G M E N T

BRIEF FACTS OF THE CASE:-

1. Briefly stated, the facts of present case are that on 24.09.2019 at about 02:45 PM a team of TATA Power Delhi Distribution Limited (hereinafter referred to as 'Complainant Company') comprising of Naveen Kumar Gupta, Manmohan Singh, Sanjay Kumar inspected the premises RZ-254, Phase-I, Karan Vihar, Delhi (hereinafter referred to as 'premises'). Inspecting team found one retained meter bearing no.TP029214, vide CA No. 6001806425 (hereinafter referred to as 'meter in question') was installed in the name of Kumari Devi. The inspecting team made following observations:-

> *".Meter box Seal No. -AA2525121, AA2525122 found fixed at removed to check meter. Old seals and MBS preserved inside meter box. Meter Terminal seal No. not found. Half seal No. RHS- Lead Seal, LHS Not found. Not disturbed. Genuity to be check in lab. During meter inspection found that one illegal wire found connected between I/c phase terminal to O/G phase terminal (shunt) to manipulate the actual meter*

consumption. Hence meter seized & sent to lab."

2. The total connected load was found to be 13.834 KW for non-domestic purpose. The photographer took the photographs of the site in question and conducted the videography as well. Thereafter, inspection report was prepared and after signing the inspection report, the same was served to the son of accused Om Prakash, who was present at site, who received the inspection report and signed the same. Inspecting team prepared the seizure memo after signing the same it was served to the son of accused. The inspection report is Ex. PW1/A and the seizure memos Ex.PW1/C. Inspecting team served the notice Ex.PW1/B for testing of the meter and same was received by the accused.

3. Meter was sent to meter testing laboratory i.e. Electronics And Quality Development Centre (hereinafter referred as to 'EQDC') wherein in the report it is observed that:-

   "The meter along with meter box offered to EQDC for testing found tampered. One illegal wire found connected between incoming phase terminal to outgoing phase terminal at meter terminal block. Meter is recoding 96.10% less energy consumption as compared to actual energy consumed at

Neutal Cut Mode. The lab finally concluded that meter along with Meter Box offered to EQDC for testing found tampered".

<u>PRE-SUMMONING EVIDENCE:-</u>

4. The complainant examined two witnesses during pre-summoning evidence.
   i. CW-1 B. B. Gogia, AR of the complainant company vide Power of Attorney exhibited as Ex.CW1/1, relied upon his affidavit Ex.CW1/A and relied upon meter replacement protocol vide which meter in question was retained at site for inspection as Ex.CW1/2, the referral letter vide which the seized meter was referred for testing to M/s EQDC is Ex.CW1/3, the energy meter observation report including data issued by Lab is Ex.CW1/4, the energy meter test/analysis report issued by Lab. Testing is Ex.CW1/5, the CD containing photographs taken at the time of meter testing is Ex.CW1/6, the certificate under Section 65 B (4) (C)of the Indian Evidence Act is Ex.CW1/7, the consumption pattern analysis sheet is Ex.CW1/8, the speaking order against accused is Ex.CW1/9, the final assessment bill is Ex.CW1/10.

ii. CW-2 Naveen Kumar Gupta working as Manager with the complainant company had relied upon his affidavit Ex.CW2/A and relied upon documents i.e., inspection report dated 24.09.2019 exhibited as Ex.CW2/1, seizure memo exhibited as Ex.CW2/2, photographs exhibited as Ex.CW2/3 (A-1 to A-16), CD of the photographs is exhibited as Ex.CW2/4, certificate U/s 65-B of the Indian Evidence Act is exhibited as Ex.CW2/5 and the notice for testing of meter vide no. 31542 dated 24.09.2019 site plan exhibited as Ex.CW2/6.

iii. On the basis of the above documents, accused was summoned U/s 135 r/w 138 of the Electricity Act **(hereinafter referred to as '2003 Act')**.

NOTICE:-

5. The accused was heard on the point of notice. A *prima facie* case was made out under Section 135 and 138 of Electricity Act, 2003 against the accused and accordingly, notice was framed on 17.10.2022, wherein she pleaded not guilty and claimed trial.

COMPLAINANT'S EVIDENCE:-

Prosecution has examined as much as nine PWs. Testimonies of Prosecution Witnesses are as under:-

6. PW-1 Naveen Kumar Gupta, is a raiding team member who deposed that on 24.09.2019 he was working as manager with the complainant company and further deposed that on that day he alongwith Manmohan Singh Supervisor, Himanshu Technician and Sanjay photographer had inspected the premises at H.No.RZ-254, Karan Vihar, Phase-I, Delhi where the meter bearing No.TPO29214 and CA bearing No.60001806425 were found installed in the name of accused Kumari Devi, who was found to be the user. He further stated that inspection was done in the presence of the son of the accused namely Om Prakash. He further deposed that the aforesaid meter was retained meter which was retained at site for inspection. He further stated that during inspection old meter box seal and additional meter box seals were preserved inside the meter box. He further deposed that one illegal shunt wire was found connected between incoming phase terminal to outgoing phase terminal to manipulate the actual meter consumption. He further deposed that they had prepared the inspection report bearing his signatures at point A exhibited as Ex.PW1/A which was duly served upon the son of the accused after taking his signatures at point B.

7. He further deposed that notice for testing of the meter Ex.PW1/B bearing his signatures at point B was also served upon the son of accused after taking his signatures at point A. He further stated that the meter was seized vide seizure memo exhibited as Ex.PW1/C bearing my signatures at point A and the same was sent to the laboratory for its testing. He further stated that the same was also served upon the son of accused bearing his signatures at point B. He further stated that Sanjay, photographer took photographs at the time of the inspection and the same are marked A-1 to A-16. CD of the Videography of the photographs was also prepared and the same is marked B. The connected load was found to be 13.834 KW for non-domestic purpose i.e. Welding Work and Paan Shop. He further stated that at the time of inspection, paper seal No.251105 was pasted on the meter box. The meter bearing No.TPO294 which was seized at the time of inspection is Ex.P1 and the paper seal is Ex.P2.

8. During his cross examination, PW-1 stated that in general there are five seals on meter box and meter. However, at the time of inspection only two seals were found on meter box which were found fixed. It is further stated that at the time of inspection, the load was connected with the meter. Inspection

team found three welding sets, one cutter machine and drill machine along with other appliances of light, cooler etc. at the spot in question. During cross-examination, one suggestion has been given that accused was using electricity through sanctioned meter. This suggestion has been denied. **The onus of proving this fact that electricity was used through sanctioned meter is now upon the accused himself, as per law.**

9. PW-2 Shri Manmohan Singh, who was a raiding team member deposed that on 24.09.2019, he was working as supervisor with M/s Shakti Consultancy Business Associates of the complainant company and on that day he alongwith Shri Shri Naveen Kumar Gupta, Manager, Shri Himanshu, Technician and Shri Sanjay, photographer had inspected H.No.RZ-254, Karan Vihar, Phase-I, Delhi where the meter bearing No.TPO29214, CA No.60001806425 were found installed in the name of accused Kumari Devi who was also found to be the user. He further deposed that the inspection was done in the presence of the son of the accused namely Om Prakash. He further deposed that the aforesaid meter was retained meter which was retained at site for inspection. He further deposed that during inspection old meter box seal and additional meter box seals were preserved inside the meter box and it was found that one illegal shunt wire was found

connected between incoming phase terminal to outgoing phase terminal to manipulate the actual meter consumption. He further deposed that he had prepared the inspection report and the same bears his signatures at point C which is exhibited as Ex.PW1/A. PW-2 deposed that inspection report was served upon the son of accused after taking his signatures at point B. He further stated that the notice for testing of the meter exhibited as Ex.PW1/B was also served upon the son of the accused after taking his signatures at point A. He further deposed that the meter was seized vide seizure memo Ex.PW1/C bearing my signatures at point C and the same was sent to the laboratory for its testing. He further deposed that seizure memo was also served upon the son of the accused after taking his signatures at point B. He further deposed that Shri Sanjay, photographer took the photographs at the time of the inspection which are marked A1 to A16. He further deposed that the CD of the Videography and the photographs was also prepared marked as marked B. The connected load was found to be 13.834 KW for non-domestic purpose i.e. Welding Work and Paan Shop. He further stated that at the time of inspection, paper seal No.251105 was pasted on the meter box. PW-2 identified the meter bearing No.TPO29214 as the meter which was seized at the time of inspection already exhibited as Ex.P1 as well as paper seal already exhibited as Ex.P2.

10. During his cross examination PW-2 it is reflected that his cross examination has been conducted on same line as PW-1 has been cross examined. Similar questions has been put to PW-2 and answers to those questions are verbatim same. Thus, PW-2 has corroborated, on the same line along with PW-1, what he has stated in his examination in chief.

11. PW-3 Sanjay Kumar is a photographer, who deposed that on 24.09.2019 he along with Naveen Kumar Gupta, Manmohan Singh and Himanshu had gone to RZ-254, Phase-I, Karan Vihar Delhi and had taken 16 photographs which are Ex.PW3/A-1 to Ex.PW3/A-16 and also conducted the videography and CD of the photography and videography which is Ex.PW3/B. He had also submitted a certificate under Section 65B of the Indian Evidence Act duly exhibited as Ex.PW3/C.

12. During cross examination of PW-3, it is reflected that he has corroborated what he has stated in his examination in chief and no material contradiction has emerged.

13. PW-4 Himmat Sinh is the person, who has tested the meter

along with Hardik Gohel under his supervision and guidance. He deposed that one illegal wire was found connected between incoming phase terminal to outgoing phase terminal at meter terminal block. The Meter reading was 14390 kwh. The meter was recording 96.10% less energy consumption as compared to actual energy consumed at neutral cut mod. The seals were found tampered. PW-4 had filed his report Ex.PW4/ A (colly.) bearing his signatures at point A and signatures of Hardik Gohel at point B on each page.

14. During the cross examination of PW-4, has stated that meter was tested in the presence of son of registered consumer. Seal of meter box were found fixed.

15. PW-5 B.H. Bhatt is the person, who prepared observation report along with Hardik Gohel. He deposed that on 03.10.2019, he was posted at EQDC, Delhi along with Sh.Hardik Gohel and had received seized meter packed in a gunny bag in a sealed condition. He further stated that Om Prakash i.e. son of registered consumer Kumari Devi was present at the time of testing in the lab. He further stated that the Energy Meter Observation Report Ex.PW5/A(Colly. running in 03 pages) bears his signatures on the last page at point A and signature of Sh. Hardik Gohel at point B and Sh.

Sh. Om Prakash i.e. son of registered consumer Kumari Devi at point X. PW-5 further deposed that the seized case property sent for testing in the Lab was in a sealed condition in a gunny bag. PW-5 inspected that the meter box was properly sealed with the paper seal and they physically observed the meter and mentioned the sealing details in the observation report already Ex.PW5/A. PW-5 further deposed that the preserved seal inside the meter box 483465, 483466 and 483464 were found tampered. PW-5 further deposed that he connected the meter in supply to check the accuracy of the meter and found that the accuracy of the meter was found at 96.10% slow in the neutral cut mode. PW-5 further deposed that they took the reading which they mentioned in the report. PW-5 further deposed that after that the meter was segregated and it was found that one illegal wire was found to be connected between incoming phase terminal to outgoing phase terminal at meter terminal block. The Observation report was prepared by PW-5 in the presence son of registered consumer already Ex.PW5/A. PW-5 further deposed that copy of the Meter Observation Report was given to Om Prakash i.e. son of registered consumer Kumari Devi after getting the same signed by him. PW-5 also deposed that photographer Sagar took the photographs and Meter Observation Report was explained to the son of registered consumer. PW -5 had correctly identified the case property as Ex.P1.

16. During the cross examination of PW-5, it is reflected that no question regarding any discrepancy or anomaly in the observation report has been raised. Only two three suggestions have been given. There is no question disputing the observation regarding the seal inside meter box being tampered or accuracy of meter being 96.10% slow or one illegal wire found connected between incoming phase to outgoing phase at meter terminal.

17. PW-6 Sagar is the photographer who took photographs in EQDC Lab. He deposed that on 03.10.2019 on the instructions of Himmat Singh and B. H. Bhatt he had taken 41 photographs out of which the coloured print out of 4 photographs are Marked as A-1, A-2, A-3 and A-4 were printed on the final lab report Ex.PW4/A. The remaining photographs are in CD duly exhibited as Ex.PW6/A. The certificate under Section 65B(4)(c) of the Indian Evidence Act is Ex.PW6/B.

18. During cross examination of PW-6, no material contradiction emerged and PW-5 had reiterated whatever he had stated during examination in chief.

19. PW-7 Vikas is the TPDDL official who went to the site to replace old meter. It is important to mention here that there seems to be a typographical error in mentioning the date of visit which is as per record, 24.09.2019, however, it has been mentioned as 24.02.2019. This appears to be nothing but a typographical error.

20. PW-7 Vikas deposed that on 24.02.2019 (24.09.2019), he had visited the premises in question to replace the old meter. PW-7 deposed that he found that the meter might by tampered and as a result the same was not removed from site and informed the enforcement team about the same accordingly. PW-7 further deposed that the meter replacement form dated 24.02.2019 (24.09.2019) exhibited as Ex.PW7/A bearing his signature at point A. PW-7 further deposed that the same was served upon the son of the accused bearing his signature at point X. PW-7 further deposed that the meter in question was in the name of Mrs. Kumari Devi and son of accused Om Prakash was present at site at the time when they visited the site.

21. During the cross examination of PW-7, it is stated that when meter was checked it was having only meter box seals and rest

of the seals were not present.

22. PW-8 Sh. Satish Sharma is the Authorized Representative of the Complainant Company vide Power of Attorney dated 10.09.2024 Ex.PW8/A(OSR). He deposed that this case of direct theft against accused was filed by Sh. B.B. Gogia, the then previous AR. PW-8 further deposed that he can identify his signature as he had worked with him. PW-8 further stated that he can identify his signature on the complaint wherein his signatures appears at point A of the complaint.

23. During cross examination of PW-8, no material contradiction had emerged and PW-8 had reiterated whatever he has stated during his examination in chief.

24. PW-9 Sh.B.L. Gupta, DGM, Enforcement assessment cell, TATA Power Delhi Distribution Ltd. is examined on behalf of the official who passed the assessment order. The speaking order in this case was passed by the then assessing officer Sh.Adarsh Kumar who had left the services of the complainant's company. He said that he can identify his signature as he had seen him signing and writing documents in the official course of the duty. The speaking order is Ex.PW9/1 bearing signatures of Sh. Adarsh Kumar at point A.

(Ex.PW9/1 is already Ex.CW1/9 at the time of pre-summoning evidence).

25. The said witness was not cross examined on behalf of accused, despite an opportunity to do so was given to him.

STATEMENT OF THE ACCUSED:

26. Statement under Section 313 Cr.P.C. of the accused was recorded on 07.01.2026. From the statement of accused recorded u/s 313 Cr.PC, it is reflected that he has merely denied the allegations and incriminating evidence levelled against him and has pleaded his innocence. Accused preferred to lead evidence in his defence. However, DE was closed vide order dated 23.01.2026, as accused failed to examine any witness in his defence. Thereafter, matter was listed for final arguments. Final arguments have been heard at length.

ARGUMENTS FROM THE SIDE OF ACCUSED

27. During final arguments, it is stated on behalf of accused that accused has been falsely implicated in the present case. It is stated on behalf of the accused that prior to raid two employees of TPDDL came to the office and had removed the meter, however, they had not taken the photographs.

Ownership of the site in question has neither been ascertained nor any evidence is furnished by which the site is said to be connected with the accused. No public person has either been examined at the spot or made witness in the present cases. It is further stated that the case property has been planted upon him. It is further argued that mere presence of accused at the spot does not imply that he has committed the offence i.e., theft.

ARGUMENTS FROM THE SIDE OF COMPLAINANT

28. During arguments, it is stated on behalf of the complainant that the present case is of meter tampering wherein the accused has tampered the meter using shunt wire to connect the incoming terminal of the meter with the outgoing terminal. The said fact has been corroborated through the inspection report which clearly mentions the said fact and photograph of the said shunt wire has also been taken. When the meter was sent to meter testing lab the lab has observed that due to the above mentioned shunt wire. The meter was recording 96.1 % less consumption as compared to the actual consumption. There are several other facts mentioned in the lab report such as seals of the meter box, meter and meter terminal were found tampered due to which there was clear accessibility of

the meter to the accused to tamper the meter. The lab has finally concluded that the meter in question was found tampered.

THE POSITION IN LAW:-

29. Before dealing with the factual aspect of the present case, it is important to discuss the relevant provision of the Act which are required to be considered to determine the charge framed under Sections 135 and 138 of 2003, Act. The relevant provisions are reproduced as under:-

> ***Section 135 Theft of electricity*** *– (1) Whoever, dishonestly,*
>
> a. *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; or*
>
> b. *tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or*
>
> c. *damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity, or*
>
> d. *uses electricity through a tampered meter; or*
>
> e. *uses electricity for the purpose other than for which the usage of electricity was authorized, so as to abstract or consume or use electricity shall be punishable with*

imprisonment for a term which may extend to three years or with fine or with both:

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use –

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:

Provided also that if it is provided that any artificial means or means not authorized by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

Section 138 Interference with meters or works of licensee-
(1) Whoever-
(a) unauthorisedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line; or

(b) unauthorisedly reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected; or

(c) lays or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee; or

(d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or willfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering.

INGREDIENTS OF SECTION 135 AND 138 OF THE ELECTRICITY ACT:-

30. From the bare perusal of the above section, it is reflected that the section 135 (1) (a), (b), (c) and (e) are not relevant for the present case as there are no allegations to this effect as reflected from the charge sheet. As per the allegations in the said section 135 (1), only sub section (d) is the relevant to consider here as there are allegation of using a tampered meter. Ingredients of 135 (1) of Electricity Act are as under:-

i. There is dishonest intention.

ii. Such person is the user or consuming the electricity.

iii. He has tampered with the meter and using electricity.

Such act is punishable with imprisonment for 3 years or fine or both.

31. As per Section 138 of the Electricity Act, following are the essential ingredients as the allegations against the accused are that he was found using the electricity not only by tampering it but unauthorisedly connected the meter despite its disconnection and also number of meter was found different.

i. Unauthorizedly connects any meter, indicator or apparatus with any electric line.

ii. Unauthorizedly reconnects any meter indicator or apparatus which has been cut or disconnected.

iii. Such act is punishable with imprisonment for 3 years or fine of Rs. 10,000/- or both.

32. As per the complaint, accused was found indulged in dishonest abstraction of energy by not only tampering in the meter but using illegal wire even after meter being temporarily disconnected. Thus, the onus is on the complainant

company to prove the liability of accused on the scale of beyond reasonable doubt:-

i. That accused Kumari Devi was present at the spot in question where the inspection was carried out along with user Om Prakash, who is her son.

ii. Accused along with her son and other family members used to do the work of welding and running betel leaf (*paan* shop).

iii. There was no vaild electric connection at the time of inspection.

iv. There was one retained meter bearing no.TP029214, vide CA No. 6001806425 installed in the name of Kumari Devi.

v. The meter was removed from the site and sent to lab for testing and in the meter testing report the meter seal have been found tampered/fixed.

vi. One illegal wire found connected between incoming phase terminal to outgoing phase terminal at meter terminal block. Meter is recoding 96.10% less energy consumption as compared to actual energy consumed at Neutal Cut Mode.

vii. Accused/her son was present at the time of meter testing.

viii. Assessment order has been passed against the accused.

33. The complainant company has initiated criminal prosecution against the accused on the basis of the findings of EQDC, which was arrived by scientifically examining the meter in question. Before dwelling into the facts of the present case, it will be appropriate to discuss the relevancy and admissibility of the forensic analysis report.

RELEVANCY, ADMISSIBILITY AND EVIDENTIARY VALUE OF SCIENTIFIC EVIDENCE:-

34. Opinion of an expert is relevant under Section 45 of The Indian Evidence Act, 1872. For bringing the evidence of a witness as an expert, it has to be established that expert has made a special study of the subject or acquired a special experience therein or in other words that he is skilled and has adequate knowledge of the subject. The requirements for the admissibility of the expert evidence are:

(*i*) that the expert must be qualified in that discipline.

(ii)that the expert must be within a recognized field of expertise and

(*iii*) that the evidence must be based on reliable principles.

35. It is the duty of the expert to put before the Court all the materials and mention the scientific criteria which induced the expert for arriving to the said opinion. The opinion of an expert cannot be relied unless the expert is examined as a witness. An expert is not a witness of fact, therefore, the credibility of such witness depends on the reasons stated in support of his conclusion and the data and the material furnished, which form the basis of such conclusion. The Court has to check the validity of the process by which the conclusion is arrived. The Court has to form his independent judgment by the application of scientific criteria to the material and data which was the basis for an expert to reach to the said opinion. Mere assertions without mentioning the data or basis is no evidence in the eyes of law, even if, it comes from an expert. In case the opinion is intelligible, convincing and tested becomes a factor often an important factor for consideration alongwith other evidence of the case.

36. Reliance is placed upon the judgment titled as "***Ramesh***

Chandra Agrawal v. Regency Hospital Ltd.", (2009) 9 SCC **709**. The relevant extract of the said judgment is reproduced below for ready reference:-

> *"....Expert opinion*
>
> *16. The law of evidence is designed to ensure that the court considers only that evidence which will enable it to reach a reliable conclusion. The first and foremost requirement for an expert evidence to be admissible is that it is necessary to hear the expert evidence. The test is that the matter is outside the knowledge and experience of the layperson. Thus, there is a need to hear an expert opinion where there is a medical issue to be settled. The scientific question involved is assumed to be not within the court's knowledge. Thus cases where the science involved, is highly specialised and perhaps even esoteric, the central role of an expert cannot be disputed. The other requirements for the admissibility of expert evidence are:*
>
> *(i) that the expert must be within a recognized field of expertise,*
>
> *(ii) that the evidence must be based on reliable principles, and*
>
> *(iii) that the expert must be qualified in that discipline.*

<u>PRESENCE OF THE ACCUSED AT THE SPOT</u> :

37. It has been categorically stated by all the PWs that when inspection was carried out at the premises son of accused Om Prakash was present at the spot. Inspection report filed on record is perused. It is bearing the signature of Om Prakash who is admittedly the son of accused. Similar facts have been

mentioned in the inspection report that accused along with her son Om Prakash were present at the spot. From the cross examination of all the PWs, it is reflected that this fact has not been disputed. During arguments Om Prakash was present along with accused and has not disputed the fact that inspection was carried out on 24.09.2019. It has also not been disputed by the accused and her son that the premises where inspection was carried out is a *paan* shop where welding work was also carried out. Thus, it is not disputed but established from the record that premises where inspection was carried out belongs to the accused.

COMMITTAL OF THEFT BY ACCUSED

38. The case of complainant against accused is that there was an old retained meter at the site. In this meter, seal was found tampered and one illegal wire was also found connected in between phase terminals meaning thereby a shunt was found in the meter. This fact has not been disputed by the accused or her son that the premises where inspection has been carried out belongs to them. Meter in question which is stated to be tampered with has been installed by the accused and her family members. It is also not disputed that this meter was for non-domestic purpose and welding work was being done by

husband of the accused along with *paan* shop. It has been argued that no welding work was being done at the time of inspection and such work was already stopped much ago. There is no evidence from the side of the accused in this regard, nor any witness has been examined from their side to establish this fact that no welding work was being done at the premises at the time of inspection conducted on 24.09.2019. It is a matter of record that opportunity to lead DE has been given to accused, however, no defence evidence has been led by the accused despite opportunities. Thus, whatever has been alleged by accused during arguments or any photographs shown by them that meter in question has been removed by TPDDL officials prior to inspection, is not supported with any evidence on record. They have tried to show 8 bills of the impugned meter alleging that they were paying the consumption charges regularly. It is important to mention here that the case of complainant and allegation against the accused are that meter has been tampered with due to which consumption has reduced more than 95 % than the actual consumption. Thus, in my considered opinion, even if regular dues as per bill so raised from time to time are paid, that does not absolve the accused from their liability if any manipulation or tampering is done in the meter.

39. Now, coming to the evidence led by the complainant which is available on record. There is no dispute that inspection was conducted on 24.09.2019. PW-1, PW-2, PW-3 and PW-7 have categorically stated that during inspection old meter box seal were found tampered with and only two seals were found. It has been further stated that one illegal shunt wire was found connected between incoming phase terminal to outgoing phase terminal. PW-3 is the photographer, who has taken the photographs of the meter. These photographs which are filed on record speaks for itself as it is narrating the entire story by mere looking at them.

40. It is important to mention here that only general suggestions have been given that no manipulation has been done, however, no contradiction has emerged from the cross examination of PW-1, PW-2, PW-3 and PW-7. Similarly, PW-4, PW-5 and PW-6 have been examined with regard to meter testing at lab. Accused himself had not disputed that notice for testing the meter exhibited as Ex.PW1/B has been given. As per record, it bears signature of Om Prakash who is son of accused. After this document exhibited as Ex.PW1/D, there is energy meter observation report and energy meter test analysis report in which it has been clearly mentioned that the meter bearing no.TP029214, vide CA No. 6001806425 installed in the name

of Kumari Devi has been tampered with and one shunt wire has been found in the meter. During arguments, son of accused has not disputed the fact that he was served with the speaking order passed by the assessment officer. PW-9 B. L. Gupta has been examined on behalf of assessing officer Adarsh Kumar speaking order passed by Adarsh Kumar has been passed by is Ex.PW9/1. This witness has not been cross examined by accused despite giving opportunity. Thus, in my considered opinion, the speaking order Ex.PW9/1 has not been disputed or controverted. Son of accused has also not disputed the fact that he has received the speaking order. It is needless to say that if accused was having any grievance against any observation in the said order then she could approach the appropriate authority filing her objection as per procedure. No such steps have been taken by the accused. This, again implies that they have accepted the speaking order passed by Adarsh Kumar.

41. All these above mentioned facts reflects that when inspection was carried out at the premises on 24.09.2019 the meter installed at the premises RZ-254, Phase-I, Karan Vihar, Delhi was found tampered with which has been confirmed in the meter testing report.

42. From the above discussion, following points have been established by the complainant against the accused which have neither been controverted nor contradicted by the accused, these are.

i. Inspection was carried out at the spot in question on 24.09.2019 at about 02:45 PM.

ii. Inspecting team found one retained meter bearing no.TP029214, vide CA No. 6001806425 (hereinafter referred to as 'meter in question') was installed in the name of Kumari Devi.

iii. The total connected load was found to be 13.834 KW for non-domestic.

iv. During meter inspection it was found that one illegal wire found connected between I/c phase terminal to O/G phase terminal (shunt) to manipulate the actual meter consumption.

v. Meter was found recording 96.10% less energy consumption as compared to actual energy consumed at Neutral Cut Mode.

vi. The said meter was removed and sent to the lab for testing the lab report is Ex.PW4/A which is against the accused. This report is further supported with the report of assessing officer.

vii. Accused as per document notice Ex.PW1/B was given notice for testing of meter vide which date of testing was informed to accused. It is bearing the signature of son of accused which again is not disputed or controverted.

viii. Son of accused appeared before the laboratory. Complainant has shown that there is no violation of DERC Regulations, 2017. Accused has failed to show anything to the contrary.

43. Thus, all the ingredients of Sections 135 and 138 of the Electricity Act stands established against accused. In my considered opinion, complainant has been successful in discharging the burden of proving the liability of accused beyond reasonable doubt.

CONCLUSION:-

44. In view of the above discussion, I am of the considered opinion that prosecution as well as complainant company has been able to prove the ingredients under Sections 135 and 138 of Electricity Act in the present case against the accused. **Thus, the liability of accused stands established beyond reasonable doubt. In these circumstances, accused Kumari Devi W/o Ram Kewal stands *convicted* of the charge levelled against her i.e., under Sections 135 and 138 of Electricity Act, 2003.**

45. **Now, to come up for determining the civil liability and order on sentence with respect to the convict on 06.05.2026.**

PRASHANT KUMAR
Digitally signed by PRASHANT KUMAR
Date: 2026.04.20 15:04:37 +0530

Announced in the open court today i.e., on 15.04.2026

(PRASHANT KUMAR)
ASJ (Electricity)/ Distt. N/W
Rohini Courts, Delhi