

MHPA010000542025



Presented on : 03/01/2025

Registered on : 03/01/2025

Decided on : 02/04/2025

Duration : 0 year, 2 months, 30 days

Form No. XXXII**Part 'A'**

(Title Page of Judgment)

(Para 44 (I) of Chapter VI of Criminal Manual)

IN THE COURT OF SPECIAL JUDGE AND ADDITIONAL SESSIONS JUDGE-2, PARBHANI DISTRICT PARBHANI Present : Abdussalam A. A. Shaikh, Special Judge-2, Parbhani (Special Case (Electricity) No.03/2025) (Exh. No.17)	
	(First Information Report No.476/2024 for offence punishable under Section 135 of the Electricity Act, 2003 of Police Station Nanalpeth Parbhani Taluka District Parbhani)
Complainant	:- The State of Maharashtra through Police Station Nanalpeth Parbhani Taluka District Parbhani (at the instance of informant namely Hemant Dhansing Takpere, Age 51

		years, Occu. Service, Additional Executive Engineer Flying Squad Parbhani Maharashtra State Electricity Distribution Company Limited Parbhani)
REPRESENTED BY	:-	Mr. N. S. Khalikar, Learned A. P. P. for the State.
ACCUSED	:-	Mohammad Lukman Abdul Gafar Age 50 years, Occu. Business R/o Lukman Cloth Shop Khatik Galli Parbhani Taluka District Parbhani
REPRESENTED BY	:-	Mr. S. G. Burse, Learned advocate for accused.

Part 'B'

(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of Offence	:-	Since prior to 27 months to 29/03/2023
Date of First Information Report.	:-	03/09/2024
Date of Charge-sheet.	:-	03/01/2025
Date of Framing of Charges.	:-	05/02/2025
Date of commencement of Evidence.	:-	13/03/2025
Date on which judgment is reserved.	:-	02/04/2025
Date of Judgment.	:-	02/04/2025
Date of the Sentencing Order, if any.	:-	On 02/04/2025 accused is acquitted.

Accused Details.

Rank of the accused	Name of accused	Date of Arrest	Date of Release on bail	Offences charges with	Whether acquitted or convicted	Sentence imposed	Period of detention Undergone during Trial for purpose of Section 428 Cr.P.C.
1.	Mohammad Lukman Abdul Gafar	27/11/2024 (As per notice U/s 35 (3) of BNSS	05/02/2025	U/s. 135 of Electricity Act	Acquitted	--	--

Part 'C'

(Para 44 (ii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**A. Prosecution :-**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Hemant Dhansing Takpere	Informant

B. Defence Witnesses, if any:-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
–	– N I L –	–

C. Court Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
–	– N I L –	–

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.**A. Prosecution :-**

Sr. No.	Exhibit Number	Description
1.	P1/PW1	Seizure panchnama

2.	P2/PW1	Letter which was given to accused
3.	P3/PW1	Spot Inspection Report
4.	P4/PW1	Letter for testing the seized meter to lab of informant's office
5.	P5/PW1	Joint Inspection Report
6.	P6/PW1	Assessment Calculation Report
7.	P7/PW1	Complaint
8.	P8/PW1	Printed First Information Report

B. Defence :-

Sr. No.	Exhibit Number	Description
—	— N I L —	--

C. Court Exhibits :-

Sr. No.	Exhibit Number	Description
—	— N I L —	--

D. Material Objects :-

Sr. No.	Exhibit Number	Description
--	- NIL -	--

JUDGMENT(Delivered on 2nd day of April 2025)

1. Accused named-above is prosecuted for the offence punishable under Section 135 of Electricity Act 2003.
2. Case of prosecution in brief is that informant namely Hemant Dhansing Takpere was at the time of incident employed on the post of Additional Executive Engineer Flying Squad Parbhani. On 29 March 2023 at 14.45 hours informant along with his associates went to Ambedkar Road Parbhani and inspected the commercial meter bearing No.9230213. That meter was standing in the name of Amrutsingh but it was being used by accused Mohammad Lukman. They checked that meter with acquicheck machine and at that time it was realized that it was running slowly. So they seized that meter and drew panchnama in that respect and also prepared Spot Inspection Report. Thereafter it was realized to them that in the last 27 months accused committed the theft of 2136 unit of electricity worth of Rs.43,070/- (Rupees Forty-Three Thousand Seventy only) and its compounding charges were Rs.10,000/- (Rupees Ten Thousand only). So bill was issued to accused. Accused paid the amount of the bill of the theft of electricity but he did not pay the compounding charges and therefore informant lodged his complaint to police. Crime for the offence punishable under Section 135 of the Electricity Act 2003 was registered vide Crime No.476/2024 with Nanalpeth Police Station. Statements of the witnesses were recorded. Spot Inspection Report was prepared. Joint Inspection Report was prepared. The meter was tested. The report of the testing of the meter was also obtained. After completion of investigation charge-sheet was filed.

3. Charge at Exh.8 for the offence punishable under Section 135 of Electricity Act 2003 was framed against accused. Particulars of the offence were read over and explained to accused in Marathi and he was asked as to whether he plead guilty. Accused pleaded not guilty and claimed to be tried. The defence of accused is of total denial.

4. After recording evidence and hearing both sides following points arise for my determination and I have noted my findings against it for the reasons to follow :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether it is proved by prosecution that accused tampered with the electric meter and thereby committed the theft of electricity worth of Rs.43,070/- (Rupees Forth-Three Thousand Seventy only) ?	> No.
2.	What offence, if any is proved against accused ?	> No.
3.	What order ?	> As per final order.

REASONS:**AS TO POINT NO. 1 TO 3 :-**

5. Evidence of informant shows that in the year 1999 he was initially appointed as Junior Engineer in Kurduwadi Solapur in MSEB. On 27/01/2022 he was posted to Parbhani. On 29/03/2023 he was on duty and on that day he along with his three associates went to the cloth shop of accused Mohammad Lukman which is situated on Ambedkar Road Parbhani. Its meter number was 9230213. They checked that meter of that cloth shop and they found that the meter was running slowly. So they removed that meter and put paper seal on it and on that paper seal he put his signature and accused Lukman also put his signature. They gave letter to accused informing him that the meter would be tested. They drew seizure panchnama of the said meter. He has identified seizure panchnama Exh.P1/PW1 and signatures of himself and the signature of accused Lukman and the signature of his three associates and signature of two panchas and admitted its contents to be correct.

6. His evidence shows that he has identified one letter Exh.P2/PW1 as the same which was given to accused and signatures of himself and accused Lukman and admitted its contents to be correct.

7. His evidence shows that they also prepared Spot Inspection Report. He has identified Spot Inspection Report Exh.P3/PW1 as the same and signatures of himself, accused Lukman and his three associates on it and its contents to be correct.

8. His evidence shows that they gave letter for testing the seized meter to lab of their office. He has identified that letter Exh.P4/PW1 as the same and his signature on it and its contents to be correct.

9. His evidence shows that in the lab when the meter was tested it was disclosed that the meter was tampered. In that respect Joint Inspection Report was prepared. He has identified Joint Inspection Report Exh.P5/PW1 as the same and signatures of himself and accused Lukman and admitted its contents to be correct.

10. His evidence shows that thereafter they prepared the assessment. At that time it was disclosed that accused committed the theft of 2136 unit of electricity worth of Rs.43,070/- (Rupees Forty-Three Thousand Seventy only). He has identified Assessment Calculation Report Exh.P6/PW1 as the same and his signature on it and admitted its contents to be correct.

11. His evidence shows that thereafter Sub-Division Office of their department issued bill to the accused. Accused paid the amount of the bill. The compounding charges were Rs.10,000/- (Rupees Ten Thousand only) but accused did not pay the compounding charges. Therefore he lodged complaint to the police. He has identified complaint Exh.P7/PW1 as the same and his signature on it and admitted its contents to be correct.

12. In his cross-examination he has admitted that the consumer of the electric meter No.9230213 is Amrutsingh. He has admitted that the incident took place on 29 March 2023 and he lodged complaint pertaining to this incident on 03/09/2024. This admission given by him

shows that complaint is not lodged within 24 hours of disconnecting of the meter or the electricity.

13. His cross-examination further shows that out of the two panchas one panch Narayan Ambhore is driver in their department and that the second panch Vishal Kakde was previously working in their department. At that time he was not working in their department. He has further deposed that when they went to conduct the raid in the cloth shop at that time they called second panch Vishal Kakde at that place. Under the circumstances it becomes clear that one panch Narayan Ambhore is driver in their department and that the second panch was also previously working in their department and that when they went to conduct raid in the cloth shop at that time they called the second panch Vishal Kakde at that place. There is nothing to show that independent respected inhabitant of that locality or of the nearby locality were called to act as panch witness. The panch witnesses who were called in this matter were the employee or previous employee of the informant's department. Under the circumstances it can be said that evidence of the informant is not supported by any independent panch witness and therefore his evidence becomes weak and cannot be relied upon. Apart from that the complaint was not filed within 24 hours of the disconnecting the electric connection or of the removing of the electric meter. Under the circumstances prosecution has failed to prove its case beyond reasonable doubt. Accordingly my answer to Point No.1 is "No". My answer to Point No.2 is "No offence is proved against accused". My answer to Point No.3 is "As per final order". For the reasons stated above accused is entitled to acquittal. Hence I pass

following order :-

ORDER

1. Accused namely **Mohammad Lukman Abdul Gafar** is acquitted of the offence punishable under Section 135 of the Electricity Act, 2003.
2. His bail bond shall stand cancelled & his surety is discharged.
3. No property is produced or seized in this case & therefore there is no order in respect of property.
4. Accused is directed to execute Personal Bond and Surety Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) to appear before the Hon'ble High Court, if this judgment is challenged by filing petition before the Hon'ble High Court or Appellate Court and the bond shall remain in force for the period of six months.

Date : 02/04/2025 }
Place : Parbhani }

Sd/-
(Abdussalam A. A. Shaikh)
Special Judge (Electricity) and
Additional Sessions Judge-2,
Parbhani.