



Presented on	:	08/09/2020.
Registered on	:	08/09/2020.
Decided on	:	27/03/2026.
Duration	:	05Y - 06M – 19D.

Part 'A'

IN THE COURT OF SPECIAL JUDGE, GONDIA,
DISTRICT GONDIA.

(Presided Over by A. C. Khurana)

Date of Judgment: 27/03/2026.

Spl. MSEB Case No. 96/2020.

CNR No.:MHGO010007392020.

EXH. NO. 44.

(Crime No.30/2020 of Keshori Police Station)

Offence: Punishable under Section 135 of Indian Electricity Act.

Prosecution	The State of Maharashtra through Police Station Officer, Police Station, Keshori, Dist – Gondia.
Represented by	Learned A.PP, Shri. P. S. Agashe for the State.
Accused	Ashok S/o Kawalram Shende, Aged about – 44 years, Occ. - agriculturist, R/o – Keshori, Tq – Arjuni Morgaon and Dist – Gondia.
Represented by	Learned advocates Shri. P. S. Shaymkuwar for the accused.

Part -B

Date of offence	:	25/01/2020.
Date of FIR	:	25/01/2020.
Date of Charge-sheet	:	07/09/2020.
Date of framing of Charge	:	07/01/2025.
Date of commencement of evidence	:	24/12/2025.
Date on which judgment is reserved	:	27/03/2026.
Date of Judgment	:	27/03/2026.
Date of sentencing order if any	:	---

Accused Details

Rank of the accused	Name of Accused	Date of Arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of Sec. 428 of Cr. P. C.
1.	Ashok Kawalram Shende	On notice	07.09.2020.	Sec. 135 of Indian Electricity Act.	Acquitted	---	N.A.

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

<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
PW-1	Anil Jageshwar Bankar (Exh-15)	Panch Witness.
PW-2	Pradip Manikrao Raut (Exh-18)	Informant.
PW-3	Ravishankar Iswardas Choudhari (Exh-30)	Station Dairy Officer.
PW-4	Udebhan Narayan Indurkar (Exh-37)	Investigating Officer.

B - Defence Witness, if any :

<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
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C - Court Witness, if any :

<u>Rank</u>	<u>Name</u>	<u>Nature of Evidence</u>
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.**A- Prosecution :-**

<u>Sr. No.</u>	<u>Exhibit Number.</u>	<u>Description.</u>
1.	Exh. 19/PW.2	Spot Panchnama.
2.	Exh. 20/PW.2	Seizure Panchnama.
3.	Exh. 21/PW.2	Written Report
4.	Exh. 22/PW.2	Printed FIR
5.	Exh.23/PW.4	The portion Mark 'A' in statement of the P.W.1 Anil Bankar

B- Defence :-

<u>Sr. No.</u>	<u>Exhibit Number.</u>	<u>Description.</u>
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C- Court Exhibits :-

<u>Sr. No.</u>	<u>Exhibit Numbers.</u>	<u>Description.</u>
1.	Exh.7	Charge
2.	Exh. 8	Plea of accused
3.	Exh. 40	Statement of accused u/s 313 of Cr.P.C.

D- Material Objects :-

<u>Sr. No.</u>	<u>Material Object Number.</u>	<u>Description.</u>
1.	M.O.1	Service Wire 30 feet.

J U D G E M E N T

(Delivered on 27th March, 2026)

The accused have been prosecuted for the offence punishable under Section 135 of the Electricity Act, 2003 (hereinafter referred to as "EA" for the sake of brevity) in connection with crime No.30/2020, registered with Police Station, Keshori, Gondia.

Brief facts of the prosecution case are as under :-

2. The informant, Pradip (P.W.2) who was serving as Assistant Engineer in the Mahavitaran Office at Keshori, Taluka Arjuni Morgaon, lodged a written report (Exh-P-21) alleging that on 29/08/2020, at about 1:20 p.m., he along with his staff visited the area of village Keshori during a drive for detection of electricity theft. During inspection near a canal/river adjoining the field of the accused, it was noticed that the accused had illegally drawn electricity from the low-tension line of the electricity company by putting a hook and using approximately 30 feet wire, thereby dishonestly abstracting electrical energy. Due that, accused caused loss to the electricity company to the tune of Rs. 36,810/-. He was directed to pay the said amount within seven days. However he has not paid the said amount.

3. On the basis of said report (Exh.P-21) offence came

to be registered under Section 135 of the Electricity Act, 2003 against the accused vide Crime No. 30/2020.

4. Investigation was handed over to Police Constable, Shri. Udebhan Narayan Indurkar, B. No. 268, Police Station, Keshori (PW.4). He recorded statement of witnesses. He further gave notice to accused. After completion of the investigation, filed charge-sheet against the accused.

5. The cognizance of offence was taken by the my learned predecessor and after hearing prosecution and accused, on 07/01/2025 framed the charge against the accused for the offence punishable under Section 135 of the Electricity Act, 2003 below Exh.7. The accused pleaded not guilty and claimed to be tried. His plea (Exh. 8) is recorded accordingly.

6. To prove it's case, prosecution examined four witnesses mentioned in part C in title clause. The prosecution relied upon documents mentioned in part 'A' in title clause. Then the prosecution closed its evidence side by filing pursis (Exh.39).

7. Incriminating circumstances were put to the accused and his statement u/s 313(1)(b) of Cr.P.C. were

recorded at Exh.40. His defence is that of total denial. Accused has not lead any oral or documentary evidence.

8. Heard learned A.P.P for the State Shri. P. S. Agashe and learned advocate Shri. P. S. Shamkuwar for the accused. It is vehemently argued by learned APP that, on the basis of seizure panchnama (Exh-P-20) and spot panchnama (Exh-P-19), prepared by Pradip (P.W.2) it has been duly proved that the accused has committed the theft of electricity. Per-contra the learned counsel for accused argued that the prosecution has failed to examine any independent witnesses and has relied only on interested departmental witnesses. He further argued that the prosecution has failed to prove that the agricultural field were raid was alleged to be conducted was belonging or was in possession of the accused. Hence, he prayed for acquittal of the accused.

9. Upon hearing the rival submissions and on perusal of the evidence and other material on record, following points arise for my determination. I have recorded my findings on those points for the reasons recorded as under :

<u>Sr. No.</u>	<u>POINTS.</u>	<u>FINDINGS.</u>
1]	Does the prosecution prove that on 25.01.2020 at about 01.20 PM. at	In the Negative.

	Keshori, Tq and Dist – Gondia accused was found committed theft of 6423 Units of electricity worth Rs. 36,810/- and by using a 3 core black coloured service wire of 30 feet in length and thereby committed an offence punishable under Section 135 of the Electricity Act, 2003 ?	
2]	What is order?	Accused are acquitted as per final order.

REASONS

AS TO POINT NO. 1 :-

10. To bring home the charge under **Section 135 of the Electricity Act, 2003**, the prosecution must establish the following essential ingredients:

1. That the accused committed theft of electricity;
2. That such theft was committed by:
 - (a) tapping or making unauthorized connection with overhead, underground or underwater lines or cables; or
 - (b) tampering with meter, installing or using a tampered meter; or
 - (c) using electricity through a device or method which interferes with accurate registration of

consumption; or

(d) using electricity for a purpose other than for which usage was authorized;

3. That the act was done dishonestly;
4. That the accused was in conscious possession or control of the premises or apparatus from which such unauthorized abstraction, consumption or use of electricity was detected.

11. At the outset, it is just to see as to what evidence the prosecution has led to prove the guilt against the accused. The prosecution's witness Informant Pradip (PW-2) (Assistant Engineer) has deposed that in the year 2020 he was working as Assistant Engineer in the Electricity Distribution Office at Keshori. On 25/01/2020, during an electricity theft detection drive, he along with staff visited the area near Gadvi river. On inspection, they noticed that the accused had illegally drawn electricity from the low-tension line by putting a hook with a black service wire of about 30 feet and was operating a motor. According to him, due to such unauthorized use, loss of about Rs.16,000/- was caused to the department. He further stated that two panch witnesses were called and in their presence spot and seizure panchnama (Exhs- P-19 & 20) were prepared.

12. It has come in cross-examination, of this witness that circulars regarding theft drives are issued from higher authorities but he has not produced any document to show that he was on duty on the relevant day. He further admitted that no entry was made in the diary while proceeding for the theft drive and that they had gone on private two-wheeler vehicles. It has also come in cross examination that the spot was an open place and he had not obtained any document to show ownership or possession of the land. He admitted that no written notice was given to panch witnesses and that no written information was received from them. He denied the suggestion that he was not on duty or that the accused had not committed theft.

13. The evidence of Pradip (PW-2), being the informant and official witness, requires careful scrutiny. His testimony suffers from material omissions and procedural lapses. Firstly, he has admitted that no documentary proof is produced to show that he was officially on duty at the relevant time, which creates doubt regarding the genuineness of the alleged inspection. Secondly, no entry in the official diary/register regarding departure for the theft drive has been made.

14. Further, the alleged spot being an open place and absence of any documentary proof regarding ownership or possession of the land creates a serious doubt about the connection of the accused with the place from where the alleged theft was detected. In such circumstances, the sole testimony of Pradip (PW-2), being an interested official witness, without independent corroboration, does not inspire full confidence. The lapses in procedure and failure to establish nexus of the accused with the premises create a reasonable doubt in the prosecution case.

15. It has come in evidence of Anil (P.W.1) that there is an existing dispute between the accused and another panch Bansod, which indicates possibility of bias. In such circumstances, testimony of panch witness Anil (P.W.1) becomes doubtful and cannot be safely relied upon without independent corroboration.

16. The prosecution relied upon spot panchnama (Exh-P-19), in which the names of the owners of the adjoining fields on all four sides are specifically mentioned. These persons were natural and independent witnesses who could have thrown light on the possession and use of the field in question and thereby connected the accused with the premises. However, the prosecution has failed to examine any

of these material witnesses without offering any explanation. This omission assumes significance, particularly when the prosecution case depend upon establishing the nexus of the accused with the field from where the alleged illegal activity was detected.

17. Non-examination of such independent witnesses creates a gap in the prosecution evidence and gives rise to an adverse inference against the prosecution, thereby weakening its case on the aspect of possession and involvement of the accused.

18. Ravishankar (PW.3) deposed that on 04/02/2020 he was working at Police Station, Duggipar as Station Diary in-charge. During duty hours from 14:00 to 20:00, Assistant Engineer Pradip (PW.2) of MSEDCL lodged a written report (Exh-P-21) alleging that accused Ashok Shende had committed theft of electricity by taking unauthorized connection. He stated that along with the written report (Exh-P-21), the informant produced documents such as spot panchanama (Exh-P-19), seizure panchanama (Exh-P-20), assessment sheet, electricity theft bill and photographs. On the basis of said complaint, he registered the offence against the accused.

19. Police Head Constable Udebhan (PW.4) deposed that in the year 2020 he was serving as Police Hawaldar at Police Station, Keshori. He stated that Crime No. 30/2020 under Section 135 of the Electricity Act was entrusted to him for investigation as per the directions of the Police Inspector. He further deposed that the case papers included written report (Exh-P-21), printed FIR (Exh-P-22), spot panchanama (Exh-P-19), seizure panchanama (Exh-P-20) and other relevant documents. During the course of investigation, he met the panch witnesses of the seizure panchanama, recorded their statements and also recorded the statement of witness Anil Bankar. He proved the portion marked 'A' in the statement of Anil (PW.1) and stated that it was recorded as per the version given by the witness. He further stated that during investigation it was revealed that the accused had taken unauthorized electricity connection in his field, and accordingly charge-sheet was filed.

20. Learned APP has argued that the prosecution has duly proved the portion marked statements of Anil (PW-1) through the Investigating Officer (PW.5). It is to be noted that the statements recorded under Section 161 of Cr.PC. are not substantive pieces of evidence and can be used only for the limited purpose of contradiction as provided under Section

145 of the Evidence Act. Mere proof of portion marked statements through the Investigating Officer does not by itself establish the truth of the contents thereof.

21. Both these witnesses are formal in nature and their evidence is confined to registration and investigation of the crime. Ravishankar (P.W.3) has merely proved that on the basis of written report (Exh-P-21) submitted by the Assistant Engineer, offence came to be registered and relevant documents were produced along with the complaint. His evidence does not throw any light on the actual incident of alleged theft of electricity, as he is not a witness to the spot inspection or alleged unauthorized connection.

22. Similarly, Udebhan (P.W.4), being the Investigating Officer, has deposed about the steps taken during investigation such as recording statements of witnesses and collecting documents. His evidence is also based on documents prepared by Pradip (P.W.2) during raid and assessment of theft calculated by executive engineer. Though he stated that during investigation it was revealed that accused had taken unauthorized electricity connection, such statement is in the nature of opinion and not substantive evidence unless

supported by cogent and reliable evidence of direct witnesses or scientific examination.

23. On going through the evidence on record, it appears that the prosecution has failed to prove the essential ingredients of the offence under Section 135 of the Electricity Act. There is no reliable evidence to show that the accused had dishonestly used or stolen electricity. The alleged hooking and seizure of wire is doubtful, especially as the panch witness has not supported the case. Further, the spot is an open field and the prosecution has not proved that the accused was in possession or control of the said place. No documents are produced to connect the accused with the field. Therefore, the basic requirements of the offence are not proved. Further no alleged hook, which is the main incriminating article said to have been used for committing the offence, was not seized by Pradip (P.W.2) nor it is required by Investigation officer Udebhan (P.W.4).

24. The prosecution has not established the basis of calculation of the alleged theft amount. There is no reliable evidence regarding the connected load, hours of use, or the period of consumption (PC). In absence of such foundational facts, the assessment appears to be arbitrary. Further, the author of the assessment is not examined to explain the

formula or methodology adopted. Hence, the calculation of theft units and amount cannot be accepted as reliable.

25. No doubt, there is presumption in Section 135 of Electricity Act, 2003 which runs as under -

“Provided also that if it is proved that any artificial means or means not authorised 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”.

26. However, such presumption is not automatic and arises only when the prosecution first establishes foundational facts, namely existence of artificial means or unauthorized arrangement and its connection with the accused. In the present case, the prosecution has failed to satisfactorily prove these foundational facts.

27. Therefore, the evidence of these witnesses, being formal and procedural, is insufficient by itself to prove the guilt of the accused under Section 135 of the Electricity Act beyond reasonable doubt, in absence of substantive and

reliable evidence regarding actual commission of theft and nexus of the accused with the alleged act. **Hence, I answer Point No.1 in the negative.**

28. As the prosecution has failed to prove the offence against the accused, the seized property i.e. 30 feet service wire is not required to be returned. There is no evidence on record regarding ownership of the said property. Hence, after expiry of appeal period, the said property needs to be sold by public auction as per rules, and the sale proceeds needs to be credited to the Government.

AS TO POINT NO.2 :

29. In view of my findings on point No. 1, I hold that the prosecution has failed to prove it's case and the accused as such is liable to be acquitted. **Hence, I pass following order -**

<u>ORDER</u>	
1.	Accused namely Ashok S/o Kewaram Shende, Aged about – 44 years, Occ. - agriculturist, R/o – Keshori, Tq – Arjuni Morgaon and Dist – Gondia is hereby acquitted of the offences punishable under Sections 135 of the Electricity Act, 2003 vide Section 235 (1) of the Code of Criminal Procedure.

2.	Accused is on bail. His bail bond is cancelled and surety are discharged.
3.	Accused is directed to execute PR Bond of Rs. 15,000/- and furnish one surety in the like amount in compliance of the provision of Section 437-A of the Cr.PC. which shall remain in force for a period of six months from today for their appearance in appeal, if appeal is preferred.
4.	The seized Muddemal i.e. 30 feet service wire be sold by public auction as per rules, after appeal period is over and sale proceeds needs to be credited to the Government.
5.	Case is disposed of accordingly.

Place : Gondia.
Date : 27/03/2026.

Sd/-
(A. C. Khurana)
Special Judge, Gondia.