

MHNS010048362024



Received on : 01.07.2024  
Registered on : 01.07.2024  
Decided on : 13.04.2026  
Duration : Y. M. D.  
01 09 12

Ex. No. :

**PART 'A'**

<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE-6, NASHIK, AT NASHIK</u>	
<u>(PRESIDED OVER BY V. V. KATHARE)</u>	
Date of Judgment	: 13.04.2026
Special (Electricity) Case No.	: 176 of 2024
Details of FIR / Crime and Police Station	: C. R. No. 483 of 2023 of Mumbai Naka Police Station, Nashik, for the offence punishable under section 135 of the Electricity Act.
Complainant	: The State of Maharashtra, Through : P. I. Mumbai Naka, Mumbai Naka Police Station, Nashik
Represented by	: Shri. V. R. Gaikwad, APP for the State
Accused	: Bhaulal Pandharinath Tambade, (A1) Age : 55 Yrs., Occ. : Business, R/o.: Block No. 1, 'C' wing, Swastishri Apartment, Govind nagar, Nashik
Represented by	: Shri. J. S. Watpade, Learned Advocate for the accused.

**PART 'B'**

Date of Offence	:	23.11.2023
Date of FIR	:	19.12.2023
Date of Charge-sheet	:	01.07.2024
Date of Framing of Charges	:	06.09.2024
Date of commencement of evidence	:	13.02.2025
Date on which Judgment is reserved	:	07.04.2026
Date of the Judgment	:	13.04.2026
Date of the sentencing order, if any	:	-

**ACCUSED DETAILS**

Rank of the accused	Name of accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of section 428 of Cr. P. C.
A1	Bhaulal Pandharinath Tambade	Anti. bail on 06.1.2024	-	Under section 135 of the Elect. Act	acquitted	-	-

**PART 'C'****LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A] PROSECUTION :-**

<u>Rank</u>	<u>Name</u>	<u>Nature of evidence</u> (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
PW 1	Haresh Ramchandra Bhavar, Ex. 18	Informant/complainant
PW 2	Ashwinkumar Dadarao	Witness

	Dhaswadikar, Ex. 32	
PW 3	Datta Dashrath Bagul, Ex. 37	Panch witness
PW 4	Pradip Gokul Patil, Ex. 38	Witness
PW5	Somnath Pandurang Gengaje, Exh. 49	I. O.

**BJ DEFENCE WITNESSES, IF ANY :-**

<u>Rank</u>	<u>Name</u>	<u>Nature of evidence</u> (eye witness, police witness, expert witness, medical witness, panch witness, other witness)
	Nil	

**CJ COURT WITNESSES, IF ANY :-**

<u>Rank</u>	<u>Name</u>	<u>Nature of evidence</u> (eye witness, police witness, expert witness, medical witness, panch witness, other witness)
	Nil	

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**AJ PROSECUTION :-**

<u>Sr. No.</u>	<u>Exhibit number</u>	<u>Description</u>
01]	19	Notification
02]	20	Spot Inspection Report
03]	21	Spot panchnama
04]	22	Consumer Personal Ledge (CPI) of the years 2018 to 2023.

05]	23	Report submitted to Additional Sub-engineer, Ambad, Division
06]	24	Bill
07]	25	Entry of complaint note book and muddemal
08]	26	complaint
09]	27	FIR
10]	35	Certificate under section 65B of the Cr. P. C.
11]	50	Order dtd. 22.12.2023

**B] DEFENCE :-**

<u>Sr. No.</u>	<u>Exhibit number</u>	<u>Description</u>
01]	28	List
02]	29	Circular dtd. 24.08.2009

**C] COURT EXHIBITS :-**

<u>Sr. No.</u>	<u>Exhibit number</u>	<u>Description</u>
	Nil	

**D] MATERIAL OBJECTS :-**

<u>Sr. No.</u>	<u>Material Object Number</u>	<u>Description</u>
01]	Article-1	Electricity meter.

**JUDGMENT**

[Delivered on 13.04.2026]

The accused stands prosecuted for the commission

of offence punishable under section 135 of the Electricity Act.

02] Survey of the Prosecution case would reveal that the informant-cum-authorized officer Shri. Haresh Ramchandra Bhavar, (PW1) filed complaint *inter alia* alleging that on 23.11.2023, at about 09.00 a.m., he along with members of the Inspection Team visited resident of the accused. The accused was informed about their intention to check the electricity meter. The meter was having customer No. 049016460663. The said meter was checked in presence of the panch witnesses and the owner of the premises with the help of accu-check instrument and it reveals that the meter was running in a minus 85.10% speed. During inspection, it further reveals that meter has been tampered by removing the seal and one resister was planted in the internal circuit of the electric meter. Considering the theft of the electricity, meter in question was seized and the electricity supply was disconnected. It reveals that there was 6.65 kilowatt electric load to the premises of the accused. Its inspection report bearing No. 06920 was prepared.

03] On assessment of the past consumption of electricity, it further reveals that during the period of last 63 months, the accused has committed theft of 30,665/- units of electricity city worth Rs. 7,10,710/- thereby caused wrongful loss of such amount to the Maharashtra State Electricity Distribution Company Limited (MSEDCL). The accused has not deposited the charge amount. Hence, the complaint.

04] On the basis of complaint, the offence get registered and the investigation was entrusted to Mr. Somnath Pandurang

Gengaje, API, Mumbai Naka Police Station. During the course of investigation, I. O. has recorded the statements of the witnesses, collected the documents like spot panchnama, inspection report etc. prepared by the complainant. He has also collected the Consumer Personal Ledger (Ex. 22), photographs of the tampered meter vide Articles 'A' and 'B' and notification authorizing Officer of the rank of the complainant to take cognizance and to lodge complaint At Ex. 19. After complying with the necessary formalities of the investigation, charge-sheet was submitted before Jurisdictional Magistrate, who in turn committed the case to the Court of Sessions, being exclusive triable by it.

05] On appearance of the accused, my Learned Predecessor has framed the charge at Ex. 8. The accused abjured the guilt and preferred trial. To substantiate the charge leveled against the accused, the prosecution has examined in all five witnesses. Incriminating evidence appearing in the testimony of the prosecution witnesses are put to the accused, seeking his explanation at Exh. 55. The defence of the accused is of total denial and false implication. It is further contended that he is a political personality and his rivals by joining hands with the complainant, has falsely implicated him in the case.

06] The following points arise for my determination and I have noted my findings against them for the reasons stated thereunder:

**POINTS**

**FINDINGS**

01] Does the prosecution prove that, on

23.11.2023, at about 09.50 a.m., in the Block No. 1, 'C' wing, Swastishri Apartment, Govind Nagar, Nashik the accused committed theft of 30,665 units of electricity in 36 months, by attaching resistor and not paid its bill of Rs. 7,10,710/- in the electric meter and thereby committed an offence punishable under section 135 of the ...In the negative. Electricity Act?

02] What order?

...As per final order.

## REASONS

### AS TO POINT NOS. 1 AND 2 :-

07] The testimony of (PW1) Haresh Ramchandra Bhavar, informant is crucial to consider the charge leveled against the accused. The sum and substance of his testimony would reveal that on 23.11.2023, he was heading Inspection Team which was formed to locate instances of theft of electricity. He has been authorized to lodge complaint and the copy of notification Authorizing Officer of the rank of the complainant, who is Additional Executive Engineer, Flying Squad, Thane is placed on record at Ex. 19. He has further deposed when he went to check the meter of the accused, he noticed that meter was moving slowly. It was found tampered, as its seals on both sides were broken. He checked the meter with the instruments of accu-check in presence of panch as and the accused and observed that meter was running solely with a minus speed of 85.10%. On taking further inspection that he observed that one resistor was

planted in the internal circuit of the electric meter and it was showing electric load of 6.65 Koliwatt. He prepared the Spot Inspection Report which is marked Ex. 26 and drawn spot panchnama to that effect which is marked Ex. 21. Further, he has secured Consumer Personal Ledge (CPI) for the years 2018 to 2023 which is marked Ex. 22 and it reveals that during the period of last 63 months, the accused had committed theft of 30,665 units of electricity. The report regarding assessment of the theft of electricity to that effect was prepared which is marked at Ex. 23. Accordingly, the electricity bill was generated, showing the liability of a payment of electricity charges worth Rs. 7,10,710/- which is marked Exh. 24. The copy of the complaint book and the muddemal seized during the course of panchnama is at Ex. 25. He went to Bhadrakali Police Station and lodged complaint at Exh. 26. The copy of the FIR is marked at Exh. 27.

08] In the similar manner, the testimony of Ashwinkumar Dadarao Dhaswadikar (PW2) revealed that he accompanied the complainant during the inspection and this witness has corroborated in material particulars, to the version of the complainant.

09] The Learned APP has submitted that the testimony of said witness clearly established the charges leveled against the accused beyond all reasonable doubt. The accused found committing theft of the energy by tampering with the electric meter and thereby he is guilty for the offence punishable under section 135 of the Electricity Act, 2003.

10] As against this, it is submitted by the Learned

Advocate for the accused that in fact, the complainant was not authorized to take cognizance of the offence for want of letter of authorization in his name and the alleged seizure proceeding is also vitiated for non-compliance of mandatory provision of section 100(4) of the Cr. P. C. It is further argued that the witnesses examined by the prosecution admitted that there was no tampering of the electricity meter and therefore, consequent drawing liability regarding the payment of charges, owing to theft of electricity, is without any substance.

11] Having heard Learned Advocates for the respective parties, the recital of the notification Ex. 29 substantiate that the officer of the rank of a Executive Engineer or the Deputy Executive Engineer etc. are entitled to take inspection and proceed further in the event of coming across any instance of theft of electricity. Admittedly, the complainant was of the rank of Additional Executive Engineer and therefore, prima-facie it appears that the complainant was qualified to take action or cognizance regarding offence contemplated under section 135 of the Electricity Act 2003. However, the complainant has admitted in his cross-examination that he has not filed authorization letter in his name along with complaint. It is further admitted that in absence of such letter of authorization, he was not authorized to file the complaint as per the provision under section 151 of the Act. Therefore, it is evident that the cognizance of the offence, for want of such specified authorization, cannot be taken and therefore, for want of jurisdiction, the action taken by the complainant get vitiated.

12] Section 135(4) of the Act provides that the provisions of the Cr. P. C. relating to search and seizure shall apply. In the instant case, the provisions of sub-section 4 of section 100 of the Cr. P. C. would attract to the facts situation.

13] It mandates that before making search, the officer or other persons about to make it shall call two or more independent inhabitants of the locality in which the place to be searched, is a situated.

14] Admittedly, both the panch witness to the spot panchnama Ex. 21 are not local residents as mandated under the supra provisions. The sole panch examined by the prosecution i.e. Datta Dashrath Bagul (PW3) did not support the prosecution version and become hostile. He was subjected to searching cross-examination by the Learned APP, but nothing substantial could be brought on record, to prove the case of the prosecution.

15] In view of the same, there is glaring non-compliance of the provisions of section 100(4) of the Cr. P. C., in as much as both the panch witnesses are not local inhabitants. The sole panch examined by prosecution turned hostile and thus prosecution has failed to prove spot panchnama either through other panch or complainant or through I. O. In view of the matter, the proceeding of inspection and search suffer from serious defect. It further reveals from the cross-examination of the complainant Haresh Ramchandra Bhavar (PW1) that he did not tried to secure independent witness and also failed to draw any reason for not complying with the provision in this regard.

16] The Learned Advocate for the accused placed

reliance of the Judgment of the Hon'ble M. P. High Court in case of **Bapupuri vs. Madhya Pradesh Vidyut Vitran Company Ltd. reported of (2008) 11 MP CK 0047**, wherein the Hon'ble High Court has categorically observed that non-authorization in the name of the complainant as well as non-compliance of the mandatory provision of section 100(4) of the Cr. P. C. vitiate the trial. Further, section 135 of the Electricity Act mandates that as per proviso to sub-section (1A), the complaint has to be registered within a period of 24 hours of the disconnection. The facts of the case would reveal that the inspection team raided the premises of the accused and on noticing tampering with the electricity meter, had disconnect supply on 23.11.2023. However, it appears that the present complaint Ex. 26 came to be lodged on 19.12.2023 i.e. after unexplained substantial delay of more than 27 days, when the law mandates that such complaint should be filed within 24 hours of disconnection. Further, the complainant nowhere explained about the reasons for lodging complaint at such belated stage. Therefore, it is evident that the complaint itself gets hit by provision of section 135 of the Electricity Act.

17]            Though, it appears that the complainant has seized electric meter from the premises of the accused, he has not recorded the statements of the neighbourers or the individual to show that he had visited to the place of the accused. The complainant as well as the I. O. affirmed that they have not secured the report of the Laboratory regarding alleged tampering and theft of electricity, which was an important missing link in substantiating the allegations of the complaint.

18] On the point of tampering with the electricity meter, the Learned Advocate for the accused has brought on record in the cross-examination of the complainant that he had taken photographs in respect of the breaking of the seal affixed on the meter but for the reason best known to the complainant and the I.O., such photographs are not placed on record. The complainant has further admitted that unless seal of both sides of the meter have been broken, until then tampering of the meter by way of implanting resistor in the internal circuit, is not possible. Perusal of the seal of the meter with naked eyes would reveal that the seal was not broken. Though the complainant tried to justify by saying that seal was removed and again pasted intact, but neither such justification appears in complaint or in the spot panchnama report.

19] The allegations in the prosecution case reveals that the accused tampered the meter by planting resistor in the internal circuit. Admittedly neither the photographs of the such resistor is taken nor the tampered seal of meter was sent to Forensic Analysis to substantiate the allegations to the tampering. The complainant has further admitted that the accu-check meter, with which, the electric meter was checked, needs to be calibrated each year but there is nothing on record to suggest that calibration was done accordingly.

20] In his cross-examination, he has further admitted that there is a load of the electricity of 6.65 kilowatt. But, in the next breath, the complainant admitted that the electricity wire connected with the meter in question was less than 2.5 gauge.

On that count, it is rightly submitted by the Learned Advocate for the accused that the prosecution case that the complainant found electric supply of 6.65 kilowatt in the house of accused, was absolutely not possible as the electric wire which can sustain such load, was not there, which was 2.5 gauge only.

21] Over all analysis of the evidence, transpires that the complainant has failed to substantiate that he was authorized to inspect the premises of the accused in as much as he was not having letter of authorization in his name, as mandated by law. Further, it appears that the complaint was not filed within 24 hours of disconnection of the electricity supply. The panch witnesses to the spot panchnama and inspection report are not local inhabitant, as mandated by section 100(4) of the Cr. P. C. Further no documentary evidence has been placed on record to show that the ownership of the premises belongs to the accused.

22] In view of the above, it is needless to say that the prosecution has failed to substantiate the charge level against the accused beyond reasonable doubt. Accordingly, finding of point No. 1 answered in negative and in the result, I proceed to pass the following order :

### **ORDER**

- 01] The accused namely Bhaulal Pandharinath Tambade is acquitted vide section 235(1) of the Code of Criminal Procedure of the offence punishable under section 135 of the Electricity Act, 2003.
- 02] The bail bond of the accused stands canceled.
- 03] The muddemal property i.e. electric meter bearing No. 20990408 of HE company of 5-30

AMPS be sent to the Authority of Maharashtra State Electricity Distribution Company Limited (MSEDCL) for disposal as per law after appeal period is over.

- 04] The accused do furnish P. B. and S. B. of 25,000/- under section 437A of the Cr. P. C.

sd/-xxx

Place : Nashik  
Date : 13.04.2026

(V. V. Kathare)  
Special Judge-6, (Electricity) &  
Additional Sessions Judge,  
Nashik