

MHAH300017032020



Presented on : 17 12 2022

Registered on : 17 12 2022

Decided on : 24 03 2026

Duration : 03 03 07

Y. M. Ds.

**IN THE COURT OF SPECIAL JUDGE AT RAHATA, DIST.
AHMEDNAGAR.**

[Presided over by Rajesh S. Gupta]

J U D G M E N T

(Delivered on 24th March, 2026)

**In Special Case No. 76/2024
(Old No. 88/2022)**

Exh. No.22.

Crime No. I 155/2022 for the offence punishable under
Section 135 of the Indian Electricity Act registered with Shirdi
police station.

Complainant/- The State of Maharashtra.
Prosecution. Through Shirdi Police Station,
Tal. Rahata, Dist. Ahmednagar.

Represented by learned APP Shri B. D. Pangavhane,

- V E R S U S -

Accused:- **Pravin Vitthal Kote,**
Age : 44 years,
R/o. Shirdi, Rahata,
Tq. Rahata, Dist. Ahmednagar.

Represented by learned Advocate Shri. N.B. Rokade for accused.

Date of Offence	04.01.2021
Date of FIR	21.04.2022
Date of committal of Charge-sheet	--
Date of Framing of Charge	09.03.2026
Date of commencement of evidence	24.03.2026

Date on which judgment is reserved	--
Date of the Judgment	24.03.2026
Date of Sentencing order, if any.	--

Accused details

Rank of 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 Cr.P.C.
1	Pravin Vitthal Kote	Nil	Nil	Sec. 135 of Indian Electricity Act.	Acquitted	–	–

1. The accused stand prosecuted for the offence punishable under Section 135 of Indian Electricity Act, for allegedly committing theft of electricity to the tune of Rs.58,030/- by unauthorized connecting wire to the low voltage electricity line and used illegal electricity for commercial purpose.

The Nutshell of the prosecution case unfolds as under.

2. It is the case of prosecution that complaint is lodged by Asst. Engineer, MSEB, Br. Shirdi, Tal. Rahata to initiate action against the unauthorized use of electricity within its jurisdiction. Accordingly, on 10.01.2022 complainant along with his subordinate staff and panch proceeded towards the house of accused at Shirdi, Tal. Rahata. The electricity connection and wires were verified attached to the house it was found one unauthorized wire was connected to the direct line wire and thereby the electricity were been illegally used for the commercial purpose and therefore it was primarily revealed the accused had been committing theft of electricity. The spot of incident was

carefully verified, it was found the accused committed theft total 2449.68 unit worth Rs.58,030/- In view of the illegal electricity consumption the said amount was assessed. The incident was reported and complaint came to be lodged.

3. The spot panchnama was drawn in the presence of the panchas. The alleged wire came to be seized from the spot of incident.

4. The investigating officer investigated the case. He visited spot of incident, prepared spot panchnama and recorded the statements of the witnesses. The accused came to be arrested. After completion of investigation, he filed charge sheet against the accused in the Court.

5. The offence being exclusive triable by Special Court it came to be committed. I framed the charge at Exh. 7 against the accused. The accused pleaded not guilty and claimed to be tried. His defence is of total denial. He did not examine any defence witness.

6. The prosecution to substantiate its case examined in all one witness.

List of Prosecution witnesses.

Rank	Name	Nature of Evidence.
PW-1	Tarachand Balaji Gaikwad (Exh. 14)	Ti prove the complaint.

List of Exhibits.

Sr. No.	Exhibit Number	Description
1	15	Complaint.
2	16	Printed format of FIR.

3	17	Inspection Report.
4	18	Spot panchnama.
5	19 & 20	Copies of Assessment bill.

7. Ld. A.P.P. Shri B. D. Pangavhane submitted that the theft of electricity through connecting a wire has been proved by PW-1 as they had visited the spot of incident and had occasion to see unauthorized wire connected and thereby committing theft of electricity. It is further argued the PW-1 being a public servant had no grievance and enmity to lodge false report against the accused. The Complaint Exh. 15 and spot panchnama Exh. 18, seizure panchnama of wires is duly proved, hence the prosecution has proved the guilt of accused beyond reasonable doubt.

8. On the other hand, the Ld. Advocate Shri. Rokade for accused vehemently argued that there is no independent witnesses to signify the accused hotel where the unauthorized wire is alleged shown to be connected for gaining wrongfully. It is further argued the panchnama was drawn in the absence of accused neither any other family members or occupant of the house. The signature of accused is not obtained on the panchnama and seizure document. The accused was not given a opportunity to raise an objection. It is further submission that the prosecution failed to prove the hotel belong to accused, no document regard to ownership or any meter connected at the said premises is filed on record. The prosecution has failed to prove its case beyond reasonable doubts and hence, benefit of doubt to be given to the accused. It is further submission during the pending trial the fine amount of Rs.73,030/- was deposited towards the assessment of electricity theft and nothing remained to be paid as the matter being compoundable, is settled during the Court proceeding. Hence, accused may be given benefit of doubt and acquitted.

9. Heard both the rival contentions, perused the F.I.R, and other relevant documents which were exhibited during the evidence of witnesses. Following points arise for my determination and I record my findings for the reason to follow:

<u><i>S.N</i></u>	<u><i>Points</i></u>	<u><i>Findings</i></u>
1)	Whether the prosecution prove that on 04-04-2021, in hotel premises of accused at Shirdi, Tal. Rahata, Dist. Ahmednagar, accused found dishonestly extracting electric energy from service wire and thereby committed an offence punishable under section 135 of Electricity Act, 2003 ?	..In the Negative.
2)	What order ?	As per final order.

:- REASONS :-

As to Point No.1:-

10. It is pertinent to note that the accused is prosecuted for committing a theft of electricity. It is further taken note the accused during pending trial deposited the electricity theft amount. It is apposite the theft assessment amount along with compounding charges was deposited by the accused.

11. The prosecution to prove the electricity theft in the premise i.e. hotel of accused situated in front of house, examined PW-1 Tarachand Balaji Gaikwad, Asst. Engineer, MSEDCL. As per his evidence, since 2022 the first informant Durgesh Jagtap was working as Asst. Engineer and on the relevant day, he along with colleagues had visited village of accused to verify the electricity connection. It is further evidence, they visited near the house of accused and on verifying the connection, found one wire was connected unauthorized to the meter for the use of commercial energy and thereby using the electricity

illegally committing theft. He further stated they further verified the spot of incident and prepared panchnama. It is his evidence, the accused had unlawfully used the electricity and the unit consume for six months and the approximate calculation was carried out and thereby accused was issued a notice to pay the assessment amount, as a settlement amount for using the illegal electricity connection. He further stated after issuing notice, the accused failed to pay the settlement amount and hence, lodged the complaint Exh. 15 on 21.04.2022. He further stated spot panchanama drawn in the presence of panchas.

12. In the cross-examination, he admitted the entire assessment amount including compounding charges has been deposited by the accused. No further theft amount is to be recovered from the accused. Hence, they have no grievance against accused. The dispute between them came to be settled as of now.

13. It is apposite to note as per the provisions the inspection has to be made under Section 126 of the Electricity Act with regard to assessment of bill. So far for a criminal action, the provision has been envisaged under Section 135 of the Electricity Act, 2003, both the provisions may be recorded are as follows:-

'Section 126' assessment :- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises

in such manner as may be prescribed.

(3) The person, on whom an order has been served under subsection (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.

14. The present case does not indicates as to disconnection was effected as envisaged under section 126 of the Electricity Act.

15. It is carefully noted the Electricity Act, 2003 is a special legislation and it contains few unique features; one being powers vested in the Special Court constituted under Section 153 to assess civil liability as well. Chapter XII of the Electricity Act, 2003 deals with "unauthorized use of electricity". Section 126 provides that if on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in "unauthorized use of electricity", he shall assess the electricity charges payable by such person or by any other person benefited by such use. Section 127 provides a forum for appeal to any person aggrieved by final order made under Section 126.

16. In the instance case, undisguisedly there is nothing on record to indicate at the relevant time of incident the accused or any other occupant of the premise was present. It further appears the signature of accused is also not obtained on the panchanama. There is

further no document to signify the notice was given to accused to settle the compounding amount.

17. It is also to be taken note there are other shops in the surroundings of the alleged spot of the incident despite no statement was recorded, neither they were made witness to the panchanama. Undisputedly the panchas are not neighbours nor from the village. It is an additional factor to doubt the prosecution theory.

18. There is no eye witnesses to state the accused had put the wire over the headlines of MSEB supplying wire boards thereby committing electric theft for commercial purpose. Hence, this circumstance also do not impeach the version of prosecution witness and creates a shadow of doubt on the allegation of theft being committed and do not inspires confidence.

19. It is further taken note the PW-1 being the public servant the authorized person of the MSEDCL admitted the accused had deposited the entire theft assessment bill including compounding charges and they have no grievance against him. Then, under such circumstances, the accused cannot be attributed with the guilt beyond reasonable doubt. The prosecution has failed to prove the guilt of accused beyond reasonable doubt and accordingly I answer the point No.1 in negative. Hence, I am inclined to pass the following order:

ORDER

1. Accused Pravin Vitthal Kote is hereby acquitted vide Section 235(1) of Code of Criminal Procedure of Code for the offence punishable under section 135 of Electricity Act, 2003.

2. His bail bond stands cancelled.
3. The muddemal property being useless and worthless, be destroyed after appeal period is over.
4. The accused is released on fresh bail bond of Rs.25,000/- to ensure his presence in case of appeal against acquittal, if any, as contemplated under Sec. 437-A of Criminal Procedure (Sec. 481 of BNSS).

(Judgment Pronounced in open Court.)

Place: Rahata,
Date. 24/03/2026

(**Rajesh S. Gupta**)
Special Judge and
Additional Sessions Judge,
Rahata.