

CNR Reg. No. WBND01-000255-2008

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, JUDGE, SPECIAL COURT (ELECTRICITY ACT), 4TH COURT, KRISHNAGAR, NADIA

Present	Sri Himadri Sankar Ghosh Hazra, Addl. Sessions Judge, Judge, Special Court (Electricity Act), 4 th Court, Krishnagar, Nadia
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IE No. 276/2008
(CIS Reg. No. 276/2008)

Details of FIR/ Crime and Police station

Complainant	WBSEDCL
Represented by	Ld. Spl. PP Shri Pranab Sarkar
Accused Name, Age & Sex :-	1. Badshu @ Badsu Mandal, Age-51 years, Sex-Male
Represented by	Ld. Adv. Shri Shubhrajyoti Bairagya
Date of offence	18.08.2008
Date of FIR	18.08.2008
Date of Charge sheet	21.08.2008
Date of commencement of Evidence	20.06.2017
Date on which judgment is reserved	NIL
Date of judgment	13.08.2026
Date of sentencing order, if any	NA

Accused details

Rank of the accused	Name of the 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.	Badshu @ Badsu Mandal	Arrest on 19.08.2008	21.08.2008	U/ s.135(1) (a) of the E.Act.	Acquitted	N.A.	3 days

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :

Rank	Name	Nature of evidence Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witnesses
1.	Debendra Nath Mondal	Investigating Officer
2.	Sankar Swarnakar	Defacto complainant
3.	Kuldip Saha	Employee of WBSEDCL
4.	Siraj Mondal	Independent witness

B. Defence witnesses, if any : NIL

Rank	Name	Nature of evidence Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witnesses

C. Court witnesses, if any : NIL

Rank	Name	Nature of evidence Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other Witnesses

List of prosecution/defence/court exhibits :

A. Prosecution

Sr. No.	Exhibit No.	Description
1.	Ext. 1	Formal FIR
2.	Ext. 2	Rough sketch map of PO with index

3.	Ext. 3	Seizure list
4.	Ext. 4	Written complaint
5.	Ext. 3/1	Signature of PW3 on the seizure list

B. Defence : NIL

Sr. No.	Exhibit No.	Description

C. Court exhibits : NIL

Sr. No.	Exhibit No.	Description

D. Materials objects :

Sr. No.	Exhibit No.	Description
1.		
2.		

J U D G M E N T**FACTS OF THE CASE**

1. The case of the prosecution, in a nutshell, is that on 18.08.2008 at Village - Laxmipur under P.S. - Thanarpara, Dist-Nadia, the accused Badshu Mondal was found to have been dishonestly consuming electricity at his house premises by tapping from the Over Head Electric Service facility of WBSEDCL by means of a flexible wire and hooking device and the accused thereby committed an offence punishable u/s 135(1)(a) of the Electricity Act, 2003 within the cognizance of this court.

POINTS FOR DETERMINATION

1. Whether the prosecution has been able to prove its case or not?

EVIDENCE ON RECORD

2. **PW1:** Is the investigating officer of the instant case and he stated in his evidence that on 18.08.2008, he was posted at the Thanarpara P.S. as SI of Police and at that time, SI Manas Choudhury was the OC of their P.S. and ASI Jiban Kr. Das was also posted at their P.S. at that time. On that date ASI Jiban Kr. Das on receipt of a written complaint from Sankar Swarnakar and SM of Nazirpur Group Electric Supply registered Thanarpara P.S. Case No. 57/2008 dated 18.08.2008 u/s. 135(1)(a)/138 of Electricity Act against Badshu Mandal. This witness also stated that after the said case was being registered he was given the charge of investigation and he knew the hand-writing of their OC, SI Manas Choudhury and ASI Jiban Kr. Das on the formal FIR and the said formal FIR has been marked as Ext. 1. This witness further stated that after taking up the charge of investigation the said case first of all he examined persons namely Prahllad Biswas and Sanjit Kr. Mandal, both staff of the electricity department at the P.S. and recorded their statements u/s 161 of Cr.P.C. and he also examined ASI Tapan Kr. Patra at the P.S. and recorded his statement u/s. 161 of Cr.P.C. and then he went to the PO and there he prepared the rough sketch map of the PO with index and the rough sketch map of the PO with index has been marked as Ext. 2 and he examined persons namely Siraj Mandal and Arab Ali Sk at the PO and recorded their statements u/s 161 of Cr.P.C. and thereafter he returned to the P.S. for the day and then on the following date i.e., on 19.08.2008 he forwarded the accused before the Id. Court and thereafter on completion of investigation after consultation with his superior, he submitted charge-sheet being CS No. 51/08 dated 21.08.2008 u/s. 135(1)(a)/138 of Electricity Act against Badshu Mandal and he failed to recognize the accused person.

3. **PW2:** Is the defacto complainant of this case and he stated in his examination-in-chief that he was a staff of WBSEDCL and that on 18-08-08 he was posted at Nazirpur C.C.C. as A.E. & S.M. and on that day they had been in routine checking programme in the company of Kuldeep Saha, AE,

Prahlad Biswas, Hg. Snr. LM, Sanjit Kr. Mondal, Hg. Snr. LM, four police personnel and other technicians to Village-Laxmipur under P.S. Thanapara in the domestic premises of one Badshu Mondal. This witness also stated that they detected that in the house of the accused he was using electricity by means of hooking from the nearest LTOH Line and was using electrical appliances and they disclosed their identity and said line connection was disconnected by their technical staff. This witness further stated that PVC wire white in colour of approximate length 30 feet along with hooking device, ceiling fan, bulb along with holder were seized by preparation of seizure list by him and he had given his signature on it and the seizure list has been marked as Ext. 3. This witness stated that the accused was present and the seized articles were sealed and packed and written complaint was prepared by him and submitted at Thanarpara P.S. along with seized articles on the same date and the written complaint has been marked as Ext. 4 and he identified the accused in court.

4. **PW3:** Stated in his evidence that he is a staff of WBSEDCL and that on 18-08-08 he was posted at Karimpur Sub-Division as A.E. and on that day they had been in routine checking programme in the company of Sankar Swarnakar, AE & SM, Prahlad Biswas, Hg. Snr. LM, Sanjit Kr. Mondal, Hg. Snr. LM, four police personnel and other technicians to Village-Laxmipur under P.S. Thanapara in the domestic premises of one Badshu Mondal and they detected that in the house of the accused, he was using electricity by means of hooking from the nearest LTOH Line and was using electrical appliances. This witness also stated that they disclosed their identity and said line connection was disconnected by their technical staff and PVC wire white in colour of approximate length 30 feet along with hooking device, ceiling fan, bulb along with holder were seized by preparation of seizure list by SM and he had given his signature in it and his signature has been marked as Ext. 3/1. This witness further stated that the accused was present and the seized articles were sealed and packed and written complaint was prepared by SM and submitted at Thanarpara P.S. along with seized articles on the same date and he identified the accused in the court room.

5. **PW4:** Is an independent witness and he does not have any knowledge about the alleged incident.

DECISION WITH REASON

6. It appears that in order to bring home the charges against the accused the prosecution examined only four witnesses out of whom PW1 Debendra Nath Mondal was the investigating officer in this case, PW2 Sankar Swarnakar was the defacto complainant and the seizure witness as well who marked the written complaint and the seizure list prepared by him as Ext. 4 and Ext. 3 respectively, PW3 Kuldip Saha was a member of the raid party who proved his signature on the seizure list as Ext. 3/1 and identified the accused as well in the court room and the PW4 Siraj Mondal was an independent witness who said nothing in favour of the prosecution story.

7. It appears that the PW1 being the IO of this case said in his examination in chief that he recorded the statement of Siraj Mondal and Arab Ali Sk u/s. 161 of the Cr.P.C. at the PO but from the evidence of that Siraj Mondal/PW4 it appears that he said nothing in support the prosecution story and the prosecution also did not choose to examine the said Arab Ali Sk. However, from the written complaint it is stated that by way of hooking the accused was enjoying electricity illegally but the prosecution failed to prove either by producing the said appliances or by naming those appliances in the written complaint which were allegedly ran by that illegal electricity and thereby practically failed to substantiate the allegations made in the written complaint. It is also written in the written complaint that the cite inspection was prepared at the PO but the prosecution did not prove any such cite inspection report by way of executing the said document.

8. However, considering all aspects and evidence on record, I think the prosecution has failed to prove its case against the accused beyond doubt and hence I think the accused should be acquitted from this case.

Hence, it is

ORDERED

that the accused person namely **Badshu @ Badsu Mandal** is found not guilty of the charge labeled against him and he is acquitted as per the provision of section 235(1) of the Code of Criminal Procedure.

The seized *Alamat*, if any, be destroyed after the period of appeal.

Let the surety(s) be discharged from the respective bail bond(s).

Dictated & Corrected
by me

Sd/- Himadri Sankar Ghosh Hazra
Addl. Sessions Judge,
Judge, Special Court (Electricity Act),
4th Court, Krishnagar, Nadia.
(JO Code - WB 00582)

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