

**CNR Reg. No. WBND01-005860-2021****IN THE COURT OF ADDITIONAL SESSIONS JUDGE, JUDGE, SPECIAL COURT (ELECTRICITY ACT), 4<sup>TH</sup> COURT, KRISHNAGAR, NADIA**

<b>Present</b>	<b>Smt. Sushmita Gayen, Addl. Sessions Judge, Judge, Special Court (Electricity Act), 4<sup>th</sup> Court, Krishnagar, Nadia</b>
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**IE No. 22/2021  
(CIS Reg. No. 94/2021)**

**Details of FIR/ Crime and Police station**

Complainant	WBSEDCL	
Represented by	Ld. Spl. PP Shri Sukhen Das	
Accused Name, Age & Sex :-	<b>1. Tanmoy Ghosh, Age- 34 years, Sex Male</b> <b>2. Jhoru Mallick @ Abdur Rohoman Mallick, Age- 62 years, Sex Male</b> <b>3. Azid Sk @ Md. Abdul Azij Mallick, Age- 42 years, Sex Male</b> <b>4. Himu Mallick, Age- 63 years, Sex Male</b>	
Represented by	Ld. Adv. Shaiful Alam	
Date of offence	09.03.2021	
Date of FIR	10.03.2021	
Date of Charge sheet	28.04.2021	
Date of commencement of Evidence	06.10.2023	
Date on which judgment is reserved	NIL	
Date of judgment	<b>09.04.2026</b>	
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.	Tanmoy Ghosh,	Surrender on 24.03.2021 29.10.2022	24.03.2021 01.11.2022	U/s.135(1)(a) of the E.Act.	Acquitted	N.A.	3 days
2.	Jhoru Mallick @ Abdur Rohoman Mallick,	Surrender on 24.03.2021 29.10.2022 25.04.2022	24.03.2021 01.11.2022 25.04.2022				3 days
3.	Azid Sk @ Md. Abdul Azij Mallick,	Surrender on 24.03.2021 29.10.2022	24.03.2021 01.11.2022				3 days
4.	Himu Mallick	Surrender on 25.03.2021 25.04.2022 J/C	25.03.2021 26.04.2022				1 day

## 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.	Hasibur Rahaman Sardar	Defacto complainant
2.	Golam Sarwar	Supervisor of Mobile Van
3.	Sandip Dey	Employee of WBSEDCL
4.	Yeazuddin Ahmed	Outsource staff
5.	Habibur Molla	Outsource staff
6.	Samar Rajwar	Independent witness
7.	Saheb Rajwar	Independent witness
8.	Hanif Mallick	Independent witness
9.	Chhoton Ghosh	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.	<b>Ext. 1</b>	Seizure list of Tanmoy Ghosh
2.	<b>Ext. 1/1</b>	Signature of PW2 on the seizure list of Tanmoy Ghosh
3.	<b>Ext. 2</b>	Seizure list of Jhoru Mallick
4.	<b>Ext. 2/1</b>	Signature of PW2 on the seizure list of Jhoru Mallick
5.	<b>Ext. 3</b>	Seizure list of Himu Mallick
6.	<b>Ext. 3/1</b>	Signature of PW2 on the seizure list of Himu Mallick
7.	<b>Ext. 4</b>	Seizure list of Azid Sk
8.	<b>Ext. 4/1</b>	Signature of PW2 on the seizure list of Azid Sk
9.	<b>Ext. 5</b>	Written complaint
10.	<b>Ext. 6</b>	Signature of PW2 on the re-seizure list
11.	<b>Ext. 1/2</b>	Signature of PW3 on the seizure list of Tanmoy Ghosh

12.	Ext. 2/2	Signature of PW3 on the seizure list of Jhoru Mallick
13.	Ext. 3/2	Signature of PW3 on the seizure list of Himu Mallick
14.	Ext. 4/2	Signature of PW3 on the seizure list of Azid Sk
15.	Ext. 6/1	Signature of PW4 on the re-seizure list
16.	Ext. 6/2	Signature of PW5 on the re-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. This instant case arose on the basis of a written complaint filed by Hasibur Rahaman Sardar, AE & SM of Debogram Customer Care Centre, West Bengal State Electricity Distribution Company Limited, Nadia (hereinafter referred to as WBSEDCL) alleging that the accused persons namely Tanmoy Ghosh, Jhoru Mallick @ Abdur Rohoman Mallick, Azid Sk @ Md. Abdul Azij Mallick and Himu Mallick committed theft of electricity by means of hooking from the nearest LTOH line and running motor pumps

and such theft was detected on 09.03.2021 when he along with his technical staff of Debogram CCC went to the STW premises of the accused persons on a general raid. He thereafter lodged a complaint with Kaliganj P.S. stating such facts.

2. On the basis of the said complaint, Kaliganj PS case No. 116 of 2021 dated 10.03.2021 under section 135(1)(a) of the Electricity Act (hereinafter referred as the E.Act) was initiated against the above named accused persons.

3. Investigation followed and after completion of investigation, charge sheet was submitted against the above named accused persons u/s. 135(1)(a) of the Electricity Act vide charge sheet being No. 156 of 2021 dated 28.04.2021.

4. That charge was framed u/s. 135(1)(a) of the Electricity Act against the accused persons on 12.06.2023 and the charge so framed was read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried and hence, this trial.

#### **POINTS FOR DETERMINATION**

1. Did the accused persons commit theft of electricity?
2. Are the accused persons guilty of the charge labeled against them ?

#### **EVIDENCE ON RECORD**

5. **PW1:** Is the defacto complainant of the instant case and stated in his evidence that on 09.03.21 he was posted at Debogram CCC as AE & SM. That on that day Sandip Dey, JE Gr. II and other technicians they had accompanied him to a raid to Village-Sujapur, Mouggram to the STW premises of Tanmoy Ghosh, Jhoru Mallick @ Abdur Rohoman Mallick, Azid Sk @ Md. Abdul Azij Mallick and Himu Mallick. That, at the STW premises of Tanmoy Ghosh, Jhoru Mallick @ Abdur Rohoman Mallick, Azid Sk @ Md. Abdul Azij Mallick and Himu Mallick, they detected that they were using electrical appliances by means of hooking from the nearest LTOH Line and running motor pumps. That, they disclosed their identities and thereafter, the said illegal connection was disconnected by the technical staff. That, after disconnection, he seized the materials which were used for the purpose of illegal hooking on the strength of a seizure lists and that he had put his signature on the said seizure lists. The seizure lists have been marked as Ext.

1, 2, 3 & 4. That, subsequently he went to the police station and lodged the complaint and the complaint has been marked as Ext. 5.

6. **PW2:** Stated in his evidence that he is a staff of WBSEDCL and that on 09.03.21 he had accompanied the Station Manager along with others and had gone to the STW premises of the accused persons where they found that the accused persons were consuming electricity illegally by hooking from a nearby pole and running motor pumps and so as per the instruction of his superior the illegal connection was disconnected and the Station Manager seized the illegal items of hooking on the strength of a seizure lists and he had put his signature on the said seizure lists and his signatures on the said seizure lists have been marked as Ext. 1/1, 2/1, 3/1, and 4/1 and he had also put his signature on the re-seizure list and his signature has been marked as Ext. 6.

7. **PW3:** Stated in his evidence that he is a staff of WBSEDCL and that on 09.03.21 he had accompanied the Station Manager along with others and had gone to the STW premises of the accused persons where they found that the accused persons were consuming electricity illegally by hooking from a nearby pole and running motor pumps and so as per the instruction of his superior the illegal connection was disconnected and the Station Manager seized the illegal items of hooking on the strength of a seizure lists and he had put his signature on the said seizure lists and his signatures on the said seizure lists have been marked as Ext. 1/2, 2/2, 3/2, and 4/2.

8. **PW4:** Stated in his evidence that he is an outsource staff and that on 09.03.21 he had accompanied the Station Manager along with others and had gone to the STW premises of the accused persons where they found that the accused persons were consuming electricity illegally by hooking from a nearby pole and running motor pumps and so as per the instruction of his superior the illegal connection was disconnected and the Station Manager seized the illegal items of hooking on the strength of a seizure lists and he had put his signature on the re-seizure list and his signature has been marked as Ext. 6/1.

9. **PW5:** Stated in his evidence that he is an outsource staff and that on 09.03.21 he had accompanied the Station Manager along with others and had gone to the STW premises of the accused persons where they found that the accused persons were consuming electricity illegally by hooking from a nearby pole and running motor pumps and so as per the instruction of his

superior the illegal connection was disconnected and the Station Manager seized the illegal items of hooking on the strength of a seizure lists and he had put his signature on the re-seizure list and his signature has been marked as Ext. 6/2.

10. **PW6:** Is an independent witness and he did not know about any incident which took place on that date in the STW field.

11. **PW7:** Is an independent witness and he did not know about any incident which took place on that date in the agricultural field regarding electric connection.

12. **PW8:** Is an independent witness and he did not know about any incident which took place on that date in the agricultural field regarding electric connection.

13. **PW9:** Is an independent witness and he did not know about any incident which took place on that date in the agricultural field regarding electric connection.

#### **DECISION WITH REASON**

##### **Points No.1 & 2**

14. Both these points being interrelated are taken up together for discussion for the sake of brevity of discussion and to avoid unnecessary repetitions.

15. In this instant case, prosecution has examined only 9 witnesses of whom, PW1 is the defacto complainant, PW2 is the supervisor of mobile van, PW3 is the employee of WBSedcl, PW4 & PW5 are the outsource staff, PW6, PW7, PW8 and PW9 are the independent witnesses.

From the evidence on record, I find that though in the FIR it has been mentioned that the PVC wire which was used for hooking was seized but the allegedly seized alat has not been produced before the court. Without the alat being produced before the court, there is no reason to believe that anything was seized at all. That apart, in the seizure lists, I find that the witnesses are the official witnesses and no independent person has put his signature as a witness in the seizure lists. When the alleged incident occurred in the STW premises, then there is no reason why there isn't any independent witness. Hence, there is no prove that the premises where hooking was done

that premises belonged to the accused persons.

16. In the given premises, I am compelled to hold that the prosecution has miserably failed to prove its case beyond all shades of reasonable doubt and the accused persons merit acquittal.

Hence, it is

**ORDERED**

that the accused persons **A1, A2, A3 & A4** namely **1. Tanmoy Ghosh, 2. Jhoru Mallick @ Abdur Rohoman Mallick, 3. Azid Sk @ Md. Abdul Azij Mallick & 4. Himu Mallick** are found not guilty of the charge labeled against them and they are acquitted as per the provision of section 235(1) of the Code of Criminal Procedure.

The accused persons be discharged from their respective bail bond(s), if any; and be set at liberty forthwith but the accused persons shall remain on **fresh** bail bonds of Rs.1,000/- each with one registered surety for six months from this day as per the provisions of Section – 437A of Cr.P.C and which bail bonds shall be accepted subject to the satisfaction of the Ld. CJM Nadia with direction to appear before the Higher Court as and when such Court issues notice in respect of any appeal or petition filed against the Judgment and if they fail to appear, the bond(s) shall stand forfeited u/s.446 of Cr.P.C.

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

Let a copy of this Judgment be sent to the District Magistrate Nadia as per the Provisions of Section 365 of the Code of Criminal Procedure.

Dictated & Corrected  
by me

Sd/- Sushmita Gayen  
Addl. Sessions Judge,  
Judge, Special Court (Electricity Act),  
4<sup>th</sup> Court, Krishnagar, Nadia.  
(JO Code - WB 00823)

Sd/- Sushmita Gayen  
Addl. Sessions Judge,  
Judge, Special Court (Electricity Act),  
4<sup>th</sup> Court, Krishnagar, Nadia  
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