



2026:CGHC:3429



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 349 of 2024

1 - Chhattisgarh State Power Distribution Co. Ltd. Through Oic C.M. Bajpei, Aged 54 Yrs. S/o Shri G.P. Bajpei, Executive Engineer, City Dn. li, Cspdcl, Bilaspur.

... Appellant

versus

1 - Avinash Agrawal S/o Laxminarayan Agrawal Aged About 35 Years Bharti Nagar, Street Next To Aayakar Bhavan, Gol Bazaar, P.S. Civil Lines, Bilaspur (C.G.)

... Respondent

For Appellant	: Mr. Raja Sharma, Advocate.
For Respondent	: None, though served.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on Board

20/01/2026

Heard on admission.

1. The present acquittal appeal has been filed by the appellant against the impugned judgment dated 20.11.2017 passed by learned Special Judge under the Electricity Act, 2003, Bilaspur in Special Criminal Case No.361 of 2016, whereby the respondent-



accused has been acquitted from the offence under Section 135 1(a) of Electricity Act of 2003.

2. The case of the complainant/ appellant is that on 08.08.2015 they have conducted surprise raid at the residential house of the respondent-accused at Bhartiya Nagar, Near Income Tax Building, Bilaspur and found that the respondent-accused using the electricity by taking illegal electricity connection by direct hooking from LT Line. Various Punchnamas were prepared on the spot in presence of the wife of the respondent-accused and billing detail Ex.P/4 for loss of Rs.72,260/- was prepared and after due process of investigation and departmental proceedings, a complaint case was filed by the complaint/ appellant before the learned Trial Court for the offence under Section 135 and 154(5) of the Electricity Act 2003. The complaint case was registered against the respondent-accused and summons were issued. The offence of details have been explained which have been denied by the respondent-accused and, thereafter the complainant proceeded for recording evidence. The complainant has examined three witnesses in support of their complaint, the statement under Section 313 of Cr.P.C. of the respondent-accused has also been recorded. He denied the circumstances that appears against him and submitted that at the time of surprised raid he was not in his house and he did not know about the incident.



3. After appreciation of oral as well as documentary evidence led by the complainant/ appellant, the learned Trial Court has acquitted the respondent-accused from the alleged offence holding that in the Punchnamas, the signature of the wife of the respondent-accused was taken which shows that the respondent-accused was not present at the time of surprised raid. There is no independent witness in the case and the respondent-accused was not noticed before conducting raid as required under Rule 6(2) of Rules 2006. Learned Trial Court has also found that the Rule 7 of the Electricity Rules 2006, has not been followed. The said judgment of acquittal is under challenge in the present appeal.
4. Learned counsel appearing for the appellant would submit that it was a surprise raid and there is no need to issue notice to the respondent-accused. The authorities of the complainant have obtain signature of the person whoever present on the spot and in the present case, the wife of the respondent-accused was present whose signature have been obtained by the authorities. From the evidence led by the complainant, who are the departmental witness cannot be said to be interested or any animosity with the respondent-accused and there evidence cannot be disbelieved, yet despite there sufficient evidence, the respondent-accused has been acquitted, therefore, the impugned judgment of acquittal may be set aside and the respondent-accused may be convicted for the alleged offence.



5. I have heard learned counsel appellant and perused the entire record of the trial Court.
6. In the present case, the learned Trial Court has considered that the wife of the respondent-accused was present on the spot, but the respondent-accused has been prosecuted and his wife has not been prosecuted. Admittedly the memos and Panchanams were signed by the wife of the respondent-accused but, she has not made an accused. The learned Trial Court has also observed the violation of Rule 7 of the Electricity Rules 2006 by observing that the calculation sheet or assessment sheet has not been served upon the respondent-accused, so that the liability can be imposed upon him, if he fail to comply with the requirement to deposit the penalty as per the calculation-sheet. The learned Trial Court has further observed that there is no independent witness in the case from the vicinity and no article has been seized which was used in the commission of the alleged offence of theft of electricity. Considering the entire aspect of the case as well as evidence available on record, the learned Trial Court has acquitted the respondent-accused.
7. In an appeal against acquittal, the law is settled by the Hon'ble Supreme Court in various pronouncements and the view taken in favour of the respondent/ accused persons cannot be reversed in absence of any cogent and clinching evidence against them.



8. Recently, applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of "State of Rajasthan Vs. Kistoor Ram" reported in 2022 SCC Online SC 984, has held as follows:-

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

9. Further, in case of "Jafarudheen and Others Vs. State of Kerala", reported in 2022 (8) SCC 440, the Hon'ble Supreme Court has considered the scope of interference in appeal against acquittal in judgement at para 25, which reads as under :-

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption



that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

10. After considering the material available on record as well as the well- reasoned judgment passed by the learned trial court and being very much conscious of the existing legal position as held in case of Kistoora Ram (Supra) and Jafarudheen (Supra) that in an appeal against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial court taking one view favoured the accused, reversion of the findings of acquittal by the appellate court taking the other possible view into consideration, is not permissible in law. I therefore, of the considered opinion that the judgement impugned acquitting the accused/respondent is just and proper and does not call for any interference.
11. Accordingly, the acquittal appeal is devoid of merit, and, is hereby dismissed.

Sd/-

(Ravindra Kumar Agrawal)

Judge

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