

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 49 OF 2015

The B. E. S And T Undertaking
Through Its Superintendent
Electric Supply

...Appellant

Vs.

Ekmal S/O Anis Khan And Ors

...Respondent

Abhishek Khare a/w Rakesh Singh, Heena Shaikh, Ashwin Umrikar
i/by M/s. M. V. Kini and Co. - Advocate for the Appellant

Mr. S. P. Srivastav – Advocate for Respondent No. 1

None for the Respondent No. 2

Mr. V. A. Kulkarni – APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 15th FEBRUARY, 2024

P. C. :-

1. As directed in the Order dated 18/01/2024, learned Advocate for the Appellant submitted that as per the provisions of the Electricity Act 2003, the decision of the Special Court refusing to determine the civil liability can also be challenged before this Court by way of Criminal Appeal.

2. On this aspect, he referred to few of the judgments. Let him file the compilation, by giving a copy to learned advocate for the Respondent No. 1.

3. It is true that no one is appearing for Respondent No. 2. On the basis of the instructions given by Respondent No. 1, learned Advocate Mr. Srivastav submitted that Respondent No. 2 has expired. Now the issue arises, whether the appeal will continue against Legal representatives of Respondent No. 2 or not.
4. Learned Advocate for the Appellant submitted that appeal will not abate because in this appeal, the Court is required to decide about civil liability. As on today, we are not having any documents evidencing the death of the Respondent No. 2. Even learned Advocate for Respondent No. 2 is not coming forward.
5. So let bailable warrant of Rs. 15000 be issued against Respondent No. 2.
6. The local Police also to verify whether Respondent No. 2 is alive or not and if he has expired, let them collect copy of the death certificate.
7. Once the report will come, thereafter the Court will decide what will be the effect on continuation of the appeal.
8. Matter be kept on **07th March, 2024** for compliance.

[S. M. MODAK, J.]