

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 279/2014

Jodhpur Vidhyut Vitran Nigam Ltd., Jodhpur, through authorized Officer, Hemendra Jindal Executive Engineer (CD III) Jodhpur, DISCOM Bikaner.

----Appellant

Versus

Prakash Narain S/o Shri Chhaganlal R/o Behind Chandani Hotel, Ranisar Bas, P.S. Bikaner.

----Respondent

For Appellant(s)	:	Mr. Mahesh Joshi
For Respondent(s)	:	Mr. Vikas Bijarnia

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Judgment

17/07/2025

Instant criminal appeal has been filed by the appellant-complainant under Section 372 Cr.P.C. against the acquittal of the accused-respondent from offence under Sections 135 & 138 of the Indian Electricity Act vide judgment dated 13.01.2014 passed by learned Additional Sessions Judge, No.1, Bikaner in Session Case No.04/2013.

Brief facts of the case are that on 01.06.2012 at about 11 AM complainant Bharat Singh (Junior Engineer, D-4, JVVNL submitted a written report at Anti-Electricity Theft Bureau, P.S. Bikaner Shahar to the extent that on 29.05.2012, during inspection at the accused-respondent's residence, the body seal of the electricity meter was found tampered. The accused-respondent was illegally consuming the electricity at his residence. Upon said report, Police filed an FIR and commenced investigation.

On completion of investigation, the Police filed challan before the concerned court. Thereafter, the trial court framed the charges for offences under Sections 135 & 138 Indian Electricity Act against the accused-respondent, who pleaded not guilty and claimed trial.

During the course of trial, the prosecution examined three witnesses in support of its case and exhibited certain documents. Thereafter, statement of the accused-petitioner under section 313 Cr.P.C was recorded.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 13.01.2014 acquitted the accused-respondent from offence under Sections 135 & 138 Indian Electricity Act. Hence, this criminal appeal.

Learned counsel for the appellant-complainant submits that the learned trial court has committed grave error in acquitting the accused-respondent for offence under Sections 135 & 138 Indian Electricity Act. While passing the impugned judgment, the learned trial court has not considered the evidence and other aspects of the matter in its right perspective. Thus, the impugned judgment deserves to be quashed and set aside and the accused-respondent ought to have been convicted and sentenced for offence under Sections 135 & 138 Indian Electricity Act.

Learned counsel for the sole respondent has opposed the prayer made by the counsel for the appellant and submitted that the order of acquittal is just and proper and therefore, no interference is required.

Heard learned counsel for the parties and perused the evidence of the prosecution as well as defence and the judgment passed by the trial.

On perusal of the impugned judgment, it appears that the learned trial court while passing the impugned judgment has considered each and every aspect of the matter and also considered the evidence produced before it in its right perspective. There are major contradictions, omissions & improvements in the statements of the witnesses. The prosecution has failed to prove its case against the accused-respondent beyond all reasonable doubts and thus, the trial court has rightly acquitted the accused-respondent from offence under Sections 135 & 138 Indian Electricity Act.

In the light of aforesaid discussion, the appellant has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge.

In the case of 'Mrinal Das & others v. The State of Tripura, :2011(9) SCC 479,' decided on September 5, 2011, the Hon'ble Supreme Court, after looking into many earlier judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under:

"An order of acquittal is to be interfered with only when there are "compelling and substantial reasons",for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc.,the appellate court is competent to reverse the decision of the trial Court depending on the materials placed.

Similarly, in the case of State of Rajasthan v. Shera Ram alias Vishnu Dutta, reported (2012) 1 SCC 602,' the Hon'ble Supreme Court has observed as under:--

"A judgment of acquittal has the obvious consequence of granting freedom to the accused. This Court has taken a consistent view that unless the judgment in appeal is contrary to evidence, palpably erroneous or a view which could not have been taken by the court of competent jurisdiction keeping in view the settled canons of criminal jurisprudence, this Court shall be reluctant to interfere with such judgment of acquittal."

Similarly in the case of State of **State of Uttrakhand Vs. Sanjay Ram Tamta, reported (2025) 2 SCC (Criminal) 159,** the Hon'ble Supreme Court has observed as under:--

"6. Trite is the principle that the appellate courts would be slow in reversing an order of acquittal, especially since the presumption of innocence that is always available to the accused; as a basic principle of criminal jurisprudence, stands reinforced and reaffirmed by the acquittal and unless there are very substantive and compelling reasons to do so, there cannot be a reversal of an order of acquittal. Unless it is found that the findings are perverse and the only conclusion possible from the compelling evidence is of guilt; appellate courts will be slow to reverse an order of acquittal.

7. Recently, in Surender Singh Vs. State of Uttrakhand, one of us (B.R. Gavai, J.) referring to various binding precedents of this Court succinctly laid down the principle in the following manner in SCC para 24:

24 It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material

evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.”

There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion is that there is no substantial difference between an appeal against acquittal except that while dealing with an appeal against acquittal the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the trial Court is a reasonable one and the conclusion reached by it had grounds well set out on the materials on record, the acquittal may not be interfered with. Learned counsel for the appellant has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge.

In the facts and circumstances of the case, the present criminal appeal has no substance and the same is hereby dismissed.

Record of the trial court be sent back.

(MANOJ KUMAR GARG),J