



2026:DHC:1218



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment Reserved on: 10.02.2026
Judgment pronounced on: 13.02.2026

+ CRL.A. 371/2018 & CRL.M.A. 5700/2018

RAMJUS

.....Appellant

Through: Mr. Satyajit Kumar Singh, Advocate.

Versus

B.S.E.S RAJDHANI POWER LTD

.....Respondent

Through: Mr. Sharique Hussain, Ms. Kirti Garg
and Mr. Raghav Awasthi, Advocates
for BSES RPL.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374 of the Code of Criminal Procedure, 1973 (the Cr.P.C) read with Section 156 of the Electricity Act, 2003 (the Act), the 1st accused in CC No. 505/2014 on the file of the Additional Sessions Judge, Special Electricity Court, Saket Courts, New Delhi, assails the judgment dated 07.11.2017 as per which he has been convicted for the offence punishable under Section 135 of the Act.



2. In the complaint filed under Section 151 of the Act, it was alleged by the complainant (respondent herein) thus:- on 07.03.2014, an inspection was conducted by the complainant, namely, P. Bhaskar, Assistant Manager (PW1), Tausif Ahmad, Engineer and Anoop, Lineman(PW3) at a jhuggi, situated near Shri Mata Kirtan Mandali, B 15711, Freedom Fighter Enclave, New Delhi 110068. The jhuggi was found to be in use and occupation of the 1st and 2nd accused. During the inspection, it was found that the accused persons were indulging in theft of electricity for domestic purposes with a connected load of 6.775 KW by illegally tapping electricity from the complainant's service cable, thereby causing loss and damage to the complainant.

2.1. After the inspection and raid, the inspection team prepared the inspection report, load report and seizure memo dated 07.03.2014 at the site. Videography was also carried out. As it was a case of direct theft of electricity, a theft bill dated 12.03.2014 was raised to the tune of ₹ 2,22,445/-, assessed in accordance with



the provisions of Delhi Electricity Supply Code and Performance Standards Regulations, 2007 and as per the applicable tariff prevalent at the time of the inspection, against the accused persons, which was served on them. As the accused persons failed to pay the same, the complaint was filed alleging commission of the offence punishable under Section 135 of the Act.

3. On receipt of summons from the trial court, the 1st accused entered appearance. However, the 2nd accused absconded and hence was declared a proclaimed absconder. The substance of the accusation was read over and explained to the accused, to which he pleaded not guilty. A1 submitted that it is a false and fabricated case made against him by the complainant and that he was not liable to pay any loss or damage to the complainant.

4. On behalf of the prosecution, PWs.1 to 4 were examined and Exts. PW. PX, PW. PY, CW.1/A-B, CW. 2/A-G, P-1, EX.PX were marked in support of the case.

5. After the close of the prosecution evidence, the 1st



accused was questioned under Section 313 Cr.P.C regarding the incriminating circumstances appearing against him in the evidence of the complainant. The 1st accused denied all those circumstances and maintained his innocence. He submitted that he did not commit any theft of electricity. The premises do not belong to him. It belongs to the 2nd accused. A1 is residing at B 125A, Freedom Fighter Colony, Maidan Garhi, Neb Sarai, New Delhi and that at the time of inspection, he was merely present at the jhuggi, as A2, the owner had gone to his native place. No oral or documentary evidence was adduced by the accused.

6. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 07.11.2017 held the 1st accused guilty of the offence punishable under Section 135 of the Act and hence sentenced him to undergo rigorous imprisonment for a period of three months and to pay fine of ₹ 3,20,958/-, and in default of payment of fine, to undergo simple imprisonment for



two months and also directed to pay an amount of ₹ 2,13,975/-, towards his civil liability. Aggrieved, the 1st accused has preferred this present appeal.

7. It was submitted by the learned counsel for the appellant/ 1st accused that the latter cannot be held liable for the offence punishable under Section 135 of the Act, inasmuch as the 2nd accused, who has been declared a proclaimed absconder, is the owner of the jhuggi involved in the alleged theft of electricity and the A1is residing at B 125A, Freedom Fighter Colony, Maidan Garhi, Neb Sarai, New Delhi and that he was merely present at the jhuggi, as the 2nd accused had asked him to look after the same.. In support of this submission, reliance was placed on the Aadhaar card of the wife of the 2nd accused, annexed with the pleadings. When questioned regarding his own Aadhaar card, it was submitted that the same had not been prepared at the relevant time. It was further submitted that, considering the nature of the jhuggi, the number of equipment and machinery mentioned in the load



report, Ext. CW2/B, is highly improbable. It was also submitted that none of the documents or reports prepared by the raiding members were signed by him.

8. *Per Contra*, it was submitted by the learned counsel for the respondent that the impugned judgment does not suffer from any infirmity warranting interference by this court as the trial court has duly considered each and every ground raised in the present appeal. It was submitted that, as per the third proviso to Section 135(1) of the Act, once the existence of artificial means or unauthorised abstraction of electricity is established, a statutory presumption arises against the consumer or the person in occupation of the premises. The burden thereafter shifts upon such person to rebut the presumption by leading cogent and credible evidence. In the present case, the accused has failed to discharge the said burden or to place any material on record to disprove the presumption. On the other hand, the complainant has led credible evidence to that effect, the videography has also been duly proved,



and the accused persons have been rightly identified, goes the argument.

9. Heard both sides and perused the records.

10. The only point that arises in the appeal is whether the impugned judgment suffers from any infirmity calling for an interference of the court.

11. I shall first briefly refer to the evidence on record relied on by the complainant in support of the case. The inspection/raid in this case is alleged to have taken place on 07.03.2014 at 02:00 PM.

12. PW1, Manager of the Complainant Company deposed that, on 07.03.2014, he inspected the premises i.e. jhuggi near Mata Kiran Mandal, B-15711, Freedom Fighter Enclave, New Delhi-68. The inspection team consisted of Tausif Ahmed, Engineer and Anoop, Lineman as well as Rahul Sharma, Videographer from M/s Arora Photostudio Ltd.. On reaching the spot, it was found that there was no electricity meter and the accused persons were



committing theft of electricity by directly tapping from the BSES pole with the help of a wire i.e., two blue colour multi strand copper wire of size 2.5 mm sq. which were further connected to the connected load of the premises in question. PW1 further deposed that the above said premises were being used by 1st and 2nd accused at the time of inspection. The connected load of the premises which was running through direct theft of electricity was assessed and the total connected load was found to be approximately 6.775 KW. The wires approximately 1 meter long were removed and seized. PW1 deposed that the inspection report, load report and seizure memo were prepared at the site which have been marked as Ex.CW-2/A to Ex.CW-2/C. The videography of the inspection and connected load of the premises was conducted by Sh. Rahul Sharma/Videographer during the inspection. PW1 identified A1 in the video clipping contained in Ext. CW-2/D CD.

13. PW1, in his cross examination, admitted that the number of jhuggi has not been mentioned in the documents



prepared by him or in the complaint. During the cross examination, when the video was again played at the request of the defence counsel, PW1 identified the person seen wearing red cloth in the clipping as the 2nd accused. PW1 denied the suggestion that the premises in question belonged to 2nd accused and not to 1st accused and that 1st accused was not concerned with the premises in question in any manner and that he was residing at B-125 A, Freedom Fighter Colony, New Delhi. PW1 also denied the suggestion that 1st accused was not concerned with the use of electricity at the premises. He denied the suggestion that 1st accused was falsely implicated due to his mere presence at the spot.

14. PW3, Lineman, when examined fully supported the case of PW1.

15. PW4 deposed that assessment of theft bill was prepared by him on the basis of the inspection report and load report marked Ex/CW-2/A (colly) and Ex.CW-2/B provided by the complainant



office. The theft bill, marked as Ex.CW-2/E was also prepared by him on the basis of the formula provided under the DERC Regulations.

16. As per Section 135(1)(a) of the Act, if any person dishonestly taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be, so as to abstract or consume or use electricity, is liable to be punished.

17. The Section does not say proof of ownership of the premises is required or that it should be shown that the person found using the electricity is the owner of the premises. Hence, even if the A1 is not the owner of the premises, as contended by him, he was found in the said jhuggi and in control thereof during the time of inspection/raid, and hence can be held liable insofar as he was the occupier and beneficiary of the dishonest abstraction and use of electricity, thereby attracting liability under Section 135



of the Act. This fact stands duly proved by the documents prepared contemporaneously, that is, Ext.CW2/A inspection report, Ext.CW2/B load report, Ext.CW2/C seizure memo as well as the videography conducted during the inspection. These documents corroborate the testimonies of PW1 and PW3.

18. Further, the argument advanced by A1 by placing reliance upon his wife's Aadhaar card to contend that he is a resident of the address mentioned therein cannot also be accepted because the testimony of PW1 and PW3 corroborated with the documents prepared contemporaneously proved that he was in the possession and use of the premises at the relevant time. Moreover, the Aadhaar card of his wife cannot, in any event, be relied upon as substantive evidence to establish his residential address so as to absolve him from such criminal liability.

19. With regard to the number of equipment and machinery reported to be in use in the jhuggi, as given in Ext CW2/B load report, which recorded four lamps/bulbs of 100 W each, three



CFLs of 15 W each, one geyser with I rod of 1500 W, two cooking heaters of 2000 W each, three televisions of 110 W each, and one small I rod of 500 W, with the total connected load at the time of inspection approximately 6.775 kW, the learned counsel for the 1st accused contended that such high usage is improbable given the nature and size of the jhuggi. However, it is seen that such a defence was never taken up by the 1st accused during the trial stage and not even a single question or suggestion in this regard is seen put to PW1, the manager, or PW3, the lineman, who were members of the inspection team. Therefore, such a contention cannot be raised at the appellate stage.

20. It is true that Section 135(3) of the Act mandates that the list of items seized during an inspection or raid shall be prepared and delivered to the occupant or person, who is required to sign the same. However, PW1 and PW3 deposed that A1 had refused to sign the documents. Moreover, A1 was identified by PW1 and PW3 in their testimony while reviewing the videography.



2026:DHC:1218



Therefore, it cannot be contended that the A1 was not present during the preparation of these inspection documents. In view of the aforesaid discussion, this Court does not find any infirmity in the reasoning of the trial court which would warrant interference through this appeal proceeding.

21. The present appeal, *sans* merit is dismissed.
22. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

FEBRUARY 13, 2026/ABP