

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION FOR LEAVE TO APPEAL (STATE) NO. 51 OF 2025

State of Maharashtra through M.S.E.D.C.L.
Kalyan Police Station

...Applicant

V/s.

1. Abdul Rajjak Abdul Gani Parkar
Dead-abated

2. Wajid Abdul Rajjak Parkar & Anr.

...Respondents

SNEHA
NITIN
CHAVAN

Digitally signed
by SNEHA
NITIN CHAVAN
Date:
2026.08.21
19:48:25 +0530

WITH

APPLICATION FOR LEAVE TO APPEAL (STATE) NO.52 OF 2025

State of Maharashtra through M.S.E.D.C.L.
Kalyan Police Station

...Applicant

V/s.

Wajid Abdul Rajjak Parkar and Anr.

..Respondents

Mr. Harinder Toor a/w Ms. Vidhi Bhasin and Ms. Druti Mr. Dheer
Sampat i/b. M/s. M.V. Kini and Co. for the Applicant-
M.S.E.D.C.L.

Mr. N.V. Sawant for Respondent Nos.2 & 3 in ALS/51/2025 and for
Respondent No.1 in ALS/52/2025.

Ms. Sharmila S. Kaushik, APP for Respondent/State.

CORAM : M.M. SATHAYE, J.

DATE : 21st AUGUST, 2026

P.C. :

1. Heard learned counsel for the parties. Perused the record.

2. ALS No. 51/2025 is filed seeking leave to file appeal against order of acquittal dated 06.03.2025 passed by Special Court, Mangaon in Special MSEB Case No. 3 of 2018 and ALS No. 52/2025 is filed seeking leave to file appeal against order of the same date passed by

same Court in Special MSEB Case No.2/2018. By impugned orders, the Respondents / accused are acquitted from offence of theft of electricity punishable under 135 of Indian Electricity Act, 2003.

3. Respondent No.1 in both appeals were using electricity for the purpose of running an ice factory at the concerned sites. According to the Applicant, both the Respondents indulged into electricity theft and therefore, raid was conducted by flying squad having proper authority to conduct the raid and file complaint. According to the Applicant, the raid was video-graphed where representative of the consumer showed that with the help of remote control, a circuit inside CT (current transformer) can be accessed for tampering with the current supply to meter, thereby affecting the meter reading. According to the Applicant, in presence of panchas, the box containing meter and CT were opened, x-ray was conducted leading to discovery of an inside circuit which permitted such tampering.

4. Accordingly, police complaint was filed which led to investigation and trial. By the impugned orders, Respondents in both appeals are acquitted of offence punishable under Section 135 of the Electricity Act, 2003.

5. Having heard learned Counsel for the parties and on going through the impugned orders as well as other material produced on record, the case for grant of leave is made out, for following reasons.

(i) It has come on record through witness Mr. Arvind B. Ghase (in both cases) that both CT (current Transformers) were not provided by the Applicant company and it was procured by the consumers.

(ii) In the appeals, a specific stand is taken by the Applicant that the

entire raid conducted by the flying squad was video-graphed including consumer representative showing use of remote control for tampering.

(iii) X-ray of CTs was conducted and the receipt of the x-ray clinic is produced on record.

(iv) Learned Counsel for the Applicant has made categorical statement that video recording CD as well as x-ray reports were given to the Investigating Officer, however the same has not been brought on record.

(v) The contention of the learned Counsel for the Respondent No.1 in both the appeals that inspection report itself shows that when the box was opened, seal was in OK condition, which indicates that the meter as well as CT were not tampered and it is not even the case of the Applicant that the box was tampered. Considering the fact that CT itself is not provided by the Applicant and it is procured by the consumer, such argument will have to be tested in the context of other evidence on record.

(vi) This is a case of theft of electricity, which is a matter of serious concern. It is seen from the nature of allegation that *modus operandi* adopted for electricity theft was using modern electronic technology. Such cases require better quality of evidence than just oral evidence of the concerned witnesses. It is seen that modern and technical evidence in the form of videography CD and x-ray report have not been produced by the prosecution, for reasons best known to investigating officer.

(vii) It is informed to the Court that the loss assessed by the Applicant company because of theft in question, is about Rs.84 Lakh and 88 Lakh.

(viii) One of the reason that has weighed with the Special Judge is about the officer conducting raid not being from the particular division. In this respect, submission of the Applicant is that it is matter of administrative convenience. Whether such technical objection can be

fatal to the case of the prosecution, so far as commission of actual offence is concerned, will have to be tested while hearing the appeal with entire evidence.

6. In the aforesaid facts and circumstances and for the reasons indicated above, the **applications are allowed**. The Applicant is permitted to file appeal challenging the impugned orders dated 06.03.2025 in Sp. MSEB Case No. 2 and 3 of 2018.

7. **Appeals are admitted.** Learned Counsel for the Respondent No.1 waives service in both appeals.

(M.M. SATHAYE, J.)