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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/06/2023

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The Hon'ble Mr. Justice **G. ILANGO VAN**

Cr1.OP(MD)No.19777 of 2022

and

Cr1.MP(MD)Nos.13593 and 13595 of 2022

1.Saravanan
2.Asai @ Asai Thambi
3.A.Ananth
4.T.Tamilselvan
5.Saravankumar : Petitioners/A1 to A5

Vs.

1.The State rep. by
Inspector of Police,
Viruveedu Police Station,
Dindigul District.
(Crime No.113 of 2022) : R1/Complainant
2.K.Balamurugan : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the above charge sheet in STC No.802 of 2022 on the file of the Judicial Magistrate, Nilakottai and quash the same and pass such other orders.



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2

For Petitioner : Mr.B.Saravanan
Senior counsel
for Mr.C.Jeganathan

For 1st Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.M.Mahaboob Athiff

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.802 of 2022 on the file of the Judicial Magistrate, Nilakottai.

2.The case of the prosecution in brief:-

On 21/05/2022 at about 11.30 am, the de-facto complainant party were engaged in installation and planting electricity posts, for taking solar power to Vilathikulam to Usilampatti road. At that time, the accused came there in separate two wheelers, abused the labourers in filthy language and also demanded, by removing of the electrical posts. They also criminally intimidated. They also caused assault with hands, even caused assault on the de-facto complainant's head and chick. On the basis of the above said occurrence, a case in Crime No.113 of 2022 was registered for the offences



under sections 147, 294(b), 323 and 506(ii) IPC. After, completing the formalities of investigation, charge sheet was filed and it was taken cognizance in STC No.802 of 2022 by the Judicial Magistrate, Nilakottai.

3. Seeking quashment of the same, this petition has been filed on the sole ground that the de-facto complainant party were planting or installing the electricity posts in their patta lands. When they started questioning same, this false complaint has been given. A counter complaint was also given by A1, that has been referred as 'Mistake of Fact' without proper investigation.

4. Heard both sides.

5. It is a case of planting and installation of electrical post in the private land without proper permission. Even though, the de-facto complainant relied upon the judgment of the Hon'ble Supreme Court in the case of ***Power Grid Corporation of India Vs. Century Textiles and Industries Limited and others [(2017) 5 SCC 143]***, So far as the major portions are concerned, now



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detailed guidelines and rules have been framed in the connected issue in WP(MD)No.6327 of 2023. The following observation has been made by this court.

"(1)The petitioner is directed to comply the statutory formalities with regard to the safety measures and technical points

(2)The petitioner is directed to get proper approval for laying the pole in the property vested with the Government, Panchayat, etc. from the competent authorities. Further, the location clearance approval must be obtained by the petitioner from the Director/Generation, TANEDCO, Chennai. After getting clearance from the competent authority, if the petitioner experiences any disturbance or trouble, either at the hands of the private respondents or any other persons, shall make representation to the competent authority namely the 6th respondent herein.



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(3) The 6th respondent is directed to consider the representation by calling the officials from the petitioner/objector as well as the official from the TANEDCO, namely the Superintending Engineer, Non Conventional energy Sources. After satisfying that the requirement of law and rules have been duly complied by the petitioner in making the installation, may grant police protection, by assessing ground situation as to the necessity; and

(4) If any trouble arises to the petitioner in future in executing the orders, he may revive the application by impleading all the parties concerned.

6. The above said observation is relevant for this petition also. Even though, it is contended that only on the road margin, the above said electricity posts were installed or planted, but the information that was furnished to the petitioner by the Public Information Officer attached to Thirumangalam Surveyor, it is seen that five electrical posts have been installed or planted



in survey Nos.308/1, 308/2, 308/3 and 309/5. To show the ownership of the above said property, he has also produced the copy of the patta, wherein we see the Survey Nos.307/1, 307/3 and 307/5 are standing in the name of Rajalakshmi, w/o.Saravanan, who is A1 herein. So, it is seen that the above said electricity post has been installed or planted in the patta land of A1's wife. Without getting permission from her, it appears that the above said work has been done.

7.From the above facts and circumstances, it is seen that trouble has arisen between the de-facto complainant party and the petitioners over the above said installation of the electrical posts. On the particular day, trouble has arisen between them and complaint and counter complaint have been given. The de-facto complainant stated that they were assaulted by the accused with wooden stick, hands, etc. But absolutely, no medical examination was done.

8.In the light of the above said allegation, now, we will go to the complaint given by A1 namely Saravanan, which is also registered in Crime No.114 of 2022 under



sections 447, 427, 294(b) and 323 IPC. Wherein, it is also alleged that they were also assaulted. But, who are the aggressors, who trespassed into the property and who committed the illegality was not properly investigated by the first respondent. Even proper procedure contemplated in PSO-588-A has not been followed. So, the continuation of proceedings against the petitioners will amounts to abuse of process of court and law. On that sole ground, the final report filed is liable to be quashed.

9.In the result, this criminal original petition is **allowed**. The proceedings in STC No.802 of 2022 on the file of the Judicial Magistrate, Nilakottai is herein quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

12/06/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate,
Nilakottai.
- 2.The Inspector of Police,
Viruveedu Police Station,
Dindigul district.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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12/06/2023



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