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Crl.O.P.No.16936 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :05.09.2024

Pronounced on :11.09.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.16936 of 2024

and

Crl.M.P.No.10187 of 2024

1.Mr.Robin

2.Mrs.Stella

3.Ms.Francis Pearlin

4.Mr.Francis Herson

5.Mr.Francis

6.Mr.Rooban

.. Petitioners 1-6 /Accused 1 to 6

/versus/

1.The State Represented by

The Inspector of Police,

Central Crime Branch, Tiruppur City,

(FIR in Crime No.7 of 2024)

..1st Respondent /Complainant

2.M/s Sivaraj Spinning Mills (P) Ltd.,

Represented by its Authorised Person A.Nandhakumar,

Male, aged 32 years, Son of Avanishiappan,

Registered Office at No.207, Mangalam Road,

Karuvampalaya, Tiruppur 641 604.

.. 2nd Respondent/Defacto

Complainant



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Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records culminating in the impugned FIR in Crime No.7 of 2024 pending investigation on the file of the 1st respondent police and quash the same.

For Petitioners	:Mr.Arun Anbumani
For R1	:Mr.S.Udayakumar Govt.Advocate (Crl.Side)
For R2	:Mr.N.Chandrasekaran, Senior Counsel for M/s M.F.Shabana

ORDER

This Criminal Original Petition is filed to quash the FIR in Crime No:07/2024, pending on the file of CCB, Tiruppur City, claiming that the complaint is a classic example of misuse of due process of criminal law, squarely attract parameter (x) and (xiv) in paragraph 23 of the judgment of the Hon'ble Supreme Court in *M/s Neeharika Infrastructure Pvt. Ltd –vs- State of Maharashtra* reported in [2021(2) *MNW (Crl) 90 (SC)*].



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2. The Learned Counsel appearing for the Petitioners, emphasised that the complaint with suppression of relevant facts and false averements, which wantonly given criminal colour to a pure civil transaction is liable to be quashed. According to the petitioners, the dispute is the subject matter of a civil suit, pending for recovery of outstanding due payable by the complainant arising out of a contract to erect 16 MW Solar Power Plant for the complainant at Viralipatti, Village, Nialkottai Taluk, Dindigul District. After institution of the suit by the petitioner's Company, M/s Robin Power Solutions Pvt. Limited, to stale the civil proceedings and to pressurise the petitioners, the second respondent gave a complaint to the First Respondent. On receipt of the complaint, the 1st respondent police summoned the petitioners under Section 91 of Cr.P.C., to appear on 20/03/2024 and to produce documents. On production of documents, the said complaint was enquired and closed as "mistake of fact".



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3. Then, again the petitioners were summoned on 22/04/2024 to participate in the enquiry and the petitioners participated in the enquiry on 29/04/2024 and produced necessary documents to establish that the complainant is in fact committed breach of the contract and for recovery of money, the suit is pending against the complainant. Thereafter, the second complaint was also closed as “mistake of fact”. While so, the impugned FIR got registered pursuant to the direction of the Learned Judicial Magistrate-III, Tiruppur on the application filed by the 2nd respondent under Section 156(3) of Cr.P.C.

4. The sum and substance of the complaint is that, the complainant/2nd respondent entrusted to the Petitioner's Company with the project of supplying and installing a 16 MW Solar Energy Power Plant at Viralipatti Village, Nilakottai Taluk, Dindigul District and paid Rs.1,02,00,12,160/- based on the Energy Wheeling Agreement dated 30/09/2022. Despite receiving the money in full for erecting plant for 16 MW, only 1/8th of the project was completed for generation of 2 KW



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worth Rs.12,75,01,520/-. By receiving Rs 89,25,10,640/- in excess, the complainant is duped by the petitioner's Company.

5. The petitioners herein, apart from questioning the jurisdiction of the Judicial Magistrate, Tiruppur for ordering registration of FIR mechanically without application of mind, the petitioners submit that, even if the allegations made in the FIR is taken at their face value, offences under Sections 406,420 and 506(i) IPC are not made out, in view of the undisputed facts, which are borne out of records maintained by TANGEDCO and TANTRANSCO, which are authorities of State. Relying on the Commissioning Certificate issued by TANGEDCO dated 01/10/2022 and 21/06/2023, indicating entire 16 MW been commissioned, supported by earlier communication of the complainant to the Electrical Inspector and the response of the Electrical Inspector dated 21.01.2023, the Learned Counsel for the petitioners claims that erection of the solar power plant for 16 MW was completed before the end of November 2022. The commission of entire 16 MW got delayed due to non receipt of connectivity order for wheeling of power. After submission



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of revised completion report and the approved diagram, initially interim grid connectivity for 2 MW out of 16 MW was granted on 30.09.2022. Subsequently, for remaining 14 MW approval to connect was granted by TANGEDCO vide Memorandum dated 21.06.2023. While so, misrepresenting as if the project was completed through some other contractor, the complaint laid.

6. The Learned Counsel appearing for the complainant submitted that the alleged completion certificate issued on behalf of the accused complany, pursuant to the Inspection conducted on 21.12.2022 was found to be false and the Chief Electrical Inspector vide his letter dated 02.01.2023 sought for explanation for submitting false completion report. Thereafter, the complainant company engaged a different contractor and completed the project. In the meantime, during the inspection conducted by ITCOT, it was found that the instalation was not for 16 MW. Their report dated 25.01.2024 indicated only eraction of plant to generate only 6MW available. Therefore, pleaded that the fabricaton of the records to cheat the complainant is obviously seen from



7. The Inspector of Police who is investigating the complaint has filed an affidavit narrating in detail the disclosure of facts on the investigation conducted sofar.

8. From the affiavit of the Investigating Officer, this Court finds that the investigation is proceeding on the premise that the completion report sent by the accused company through its project contractor Mr.Veeraputiran on 26.09.2022 is false. To get Rs.1,02,18,00,000/- the entire contract amount from the complainant, the said false completion report was given by the accused. If so, the investigating Officer has to probe, why TANGEDCO vide proceedings dated 21.06.2023 granted approval for interim grid connectvity of 16MW full capacity. This is the area which needs investigation to ascertain whether between 2022 to June 2023, the defects noted were rectified or without rectifying, connectivity order was granted. Further, whether the defects were rectified by the accused company or through someother contract. Probably, the



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investiation on these line will lead to a conclusion, whether any commission of cognizable offence committed by this petitioners or it is purely a civil dispute. Institution of a suit for recovery of money will not efface any act of criminality, if material is available to show, the complainant was induced to deliver money on false document knowingly made to deceive. Hence, the complaint requires further probe. The investigation sofar conducted disclose *prima facie* case of fabricating document for the purpose of cheating. Hence, **this Criminal Original Petition to quash stands dismissed.** Consequently, connected Miscellaneous Petition is closed.

11.09.2024

Index:yes/no
Internet:yes/no
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To

- 1.The Inspector of Police, Central Crime Branch, Tiruppur City.
- 2 .The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

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delivery Order made in
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