

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No.21642 of 2010  
and  
M.P.No.1 of 2010

Ranganathan

... Petitioner

Vs.

State by: Sub Inspector of Police  
Sulur Police Station  
Sulur, Coimbatore District

... Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the FIR No.299 of 2006 dated 23.05.2006 on the file of the Sulur Police Station, Sulur, Coimbatore District and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondent : Mr.C.Emalias,  
Additional Public Prosecutor

ORDER

This petition has been filed to call for the FIR No.299 of 2006 dated 23.05.2006 on the file of the Sulur Police Station, Sulur, Coimbatore District and quash the same by allowing this Criminal Original Petition.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. On the complaint lodged by the Assistant Executive Engineer, Tamil Nadu Electricity Board, the respondent police registered a case in Cr.No.299 of 2006 on 23.05.2006 u/s 135 (1)(b) of the Indian Electricity Act, 2003 and Section 379 IPC against one Ranganathan (A1), Senthil Kumar (A2) and Sridevi (A3). It is the case of the de facto complainant that when he inspected the electricity connection on 23.05.2006 at Sri Adhavan Textiles, 3/108, Palladam Road, Palladam, they found that Sri Adhavan Textiles was run by Senthil Kumar and his

wife Sridevi and that they were illegally tapping electricity. Since electricity connection was standing in the name of Ranganathan A1/petitioner herein, who is the landlord, he has also been named in the FIR.

4. Learned counsel for the petitioner submitted that, even as per the version of the complainant, Sri Adhavan Textiles is being run by Senthil Kumar (A2) and his wife Sridevi (A3) and that Ranganathan (A) being the landlord, had let the premises to them and therefore, for their illegal act, he cannot be made criminally liable. In support of this contention, he placed reliance upon the order of this Court in P.Yamuna v. State, rep. by the Inspector of Police, H4 Korukupet Police Station, Chennai [(2008) 2 MWN (Cr.) 246].

5. Per contra, learned Additional Public Prosecutor submitted that Senthil Kumar (A2) and Sridevi (A3) filed CrI.O.P.No.13688 of 2006 for quashing the FIR in Cr.No.299 of 2006 and the same has been allowed by this Court on 30.11.2009 with liberty to the Department to file a private complaint against them. It may be relevant to extract paragraphs 6 and 7 of the order dated 30.11.2009 in CrI.O.P.No.13688 of 2006:

"6. As rightly contended by the learned counsel for the petitioners, the occurrence has taken place on 23.05.2006. Whereas, the Electricity Amendment Act 2007, incorporating Section 151(b) empowering the police to register a case and investigate and also the Court taking cognizance on a police report has come into force only on 29.05.2007 i.e., much after the registration of the first information report in this case. Therefore, the order passed by Mr.Justice S.Nagamuthu squarely applies to the facts of this case. As held in the said order, electrical energy cannot be considered to be movable property and therefore Section 379 IPC is not attracted.

7. For the aforesaid reasons, the first information report in Crime No.299 of 2006 on the file of the respondent police is hereby quashed and the above Criminal Original Petition is allowed. But however liberty is given to the authorities of the Tamil Nadu Electricity Board to file an appropriate private complaint before the Court as required under law, if they prefer to do so. Consequently, the connected CrI.M.P. is closed."

6. This Court gave its anxious consideration to the rival submissions.

7. Admittedly, this petitioner is the landlord and that he had rented the premises to Sri Adhavan Textiles that is being run by Senthil Kumar and Sridevi. In P.Yamuna's case (cited supra), this Court has held as follows:

"8.From the reading of the above said provisions, it is crystal clear that whoever commits the offence is held liable and the liability was not fixed on the person in whose name the service connection stands. Therefore, as far as the penal provision contained in the Act is concerned, every person who has tampered the meter or abstracted the energy unauthorisedly, would be held liable for the offence as stated above. As already pointed out that even as per the admitted version of the prosecution, only A2 and A3 were occupying the premises and they were consuming and enjoying the supply of electricity and as such, by no stretch of imagination, the petitioner who has been arrayed as A1 could be fastened with the liability of the above said offences merely on the ground that the service connection stands in her name. This Court, therefore, is of the considered view that allowing the proceedings to continue against the petitioner would amount to a clear case of abuse of the process of Court."

The facts at hand are similar to the one in Yamuna's case.

In the result, this petition is allowed and the FIR in Cr.No.299 of 2006 as against the petitioner is hereby quashed. The petitioner cannot be prosecuted even in a private complaint, if filed by the Department as directed by this Court in Crl.O.P.No.13688 of 2006. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Sub Inspector of Police  
Sulur Police Station  
Sulur, Coimbatore District

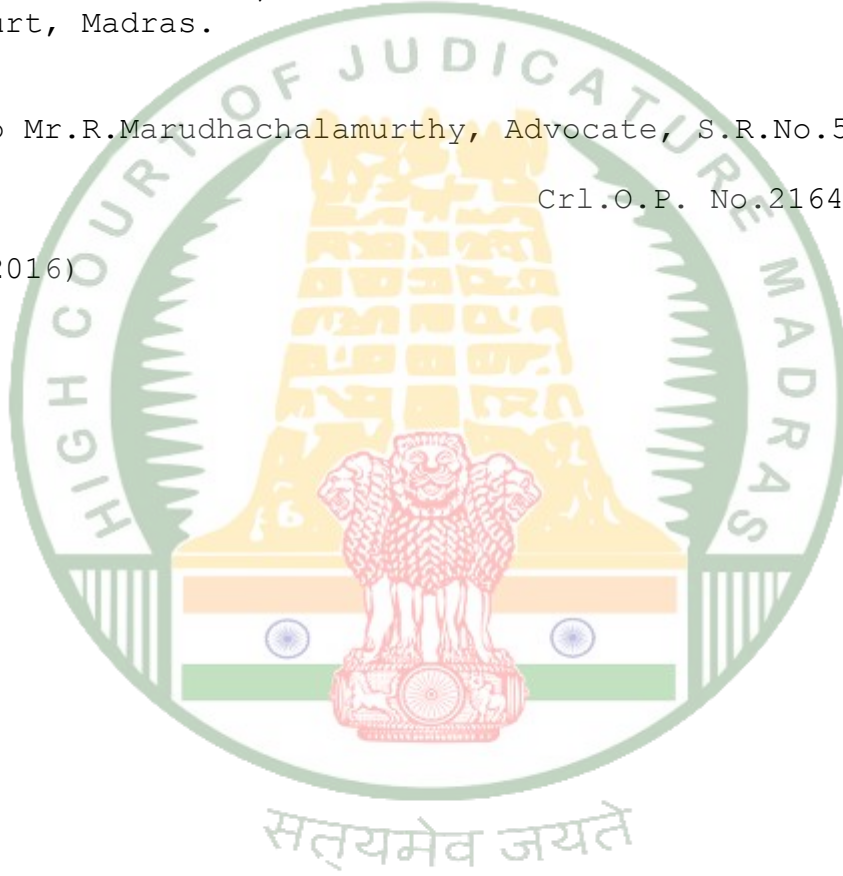
2.The Assistant Engineer  
Creation and Maintenance,  
Karadivavi, Coimbatore.

3.The Public Prosecutor,  
High Court, Madras.

+10cc's to Mr.R.Marudhachalamurthy, Advocate, S.R.No.57792

Crl.O.P. No.21642 of 2010

NR(CO)  
CA(24/10/2016)



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