

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP.No.4336 of 2011 and MP No.1 of 2011

1. A.S.Puvaneshvari,
 2. S.Shaunmugam,
 3. M.Subramani
- ...Petitioners

Vs

1. State Rep. by its Inspector of Police,
Walasarvakkam Police Station,
Chennai.
 2. The Asst. Executive Engineer,
Tami Nadu Electricity Board,
Operation Maintenance,
Alandur, Chennai-16.
- ...Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Cr.No.156 of 1998 pending on the file of the respondent police and quash the same.

For Petitioners : Mr.K.Suthan
For R1 : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records in Crime No.156 of 1998 pending on the file of the first respondent police.

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

3. The Assistant Engineer, Tamil Nadu Electricity Board lodged the present complaint alleging theft of electricity by the accused pursuant to which the second respondent police registered a case in Cr.No.156 of 1998 for the offences u/s 379 r/w 39(1) and 44(i) (c) of The Indian Electricity Act, 1910, challenging which, A2 to A4 are before this Court.

4. Mr.K.Suthan, learned counsel appearing for the accused submitted that the FIR registered in the year 1998 and till

date the police have not proceeded with the investigation further and therefore, the right of life and personal liberty under Article 21 of the Constitution of India has been adversely affected. He also relied upon the order dated 24.01.2011 passed by this Court in Crl.O.P.No.30297 of 2010, wherein a learned Single Judge of this Court has quashed the FIR in this case as regards P.V.Lokaiah (A1). The learned counsel for the petitioner placed strong reliance on the judgment of the Supreme Court in A.R.Antulay and others Vs. R.S.Nayak and another (1992) 1 SCC 225.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for the petitioners.

6. The complaint in this case alleges energy theft, which is a very serious offence affecting the public. In Ranjan Dwivedi Vs. CBI (2012) 8 SCC 495, Supreme Court refused to quash the prosecution though the case was pending for 35 years.

7. In this case, the learned judge of this Court quashed the prosecution against P.V.Lokaiah, basically on the ground that he was the landlord of the premises and that he had rented out the premises to the other accused viz., the petitioners herein, who were running an industry in the tenanted place and have allegedly committed theft of energy. It may be relevant to extract paragraph 4 of the order passed by this Court as under:

"4. The petitioner, who has been shown as A1, is the landlord of the premises and the alleged theft of energy is committed by the persons who have run the industry. In the counter affidavit, the respondent stated that there was proceedings initiated by the Electricity Board and owner of the industry has paid certain amounts. Therefore, the investigation has not progressed. I am of the considered view that whatever may be the reason, the continuance of the proceedings, which is pending right from the year 1998 against the petitioner, would amount to abuse of process of Court."

8. On a reading of the above, it is seen that the learned Single Judge was of the view that P.V.Lokaiah (A1) was only landlord and he cannot be mulcted with criminal liability and that too, the prosecution cannot be kept pending so long. On the contrary, the allegations against these petitioners is that they were running an industrial unit and committed theft of energy. In a case of this nature, the prosecution cannot be quashed at the threshold as it will send wrong signals.

dismissed with a direction to the respondent police to expeditiously complete the investigation in Cr.No.156 of 1998 and either file a charge sheet or closure report, as the case may be. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

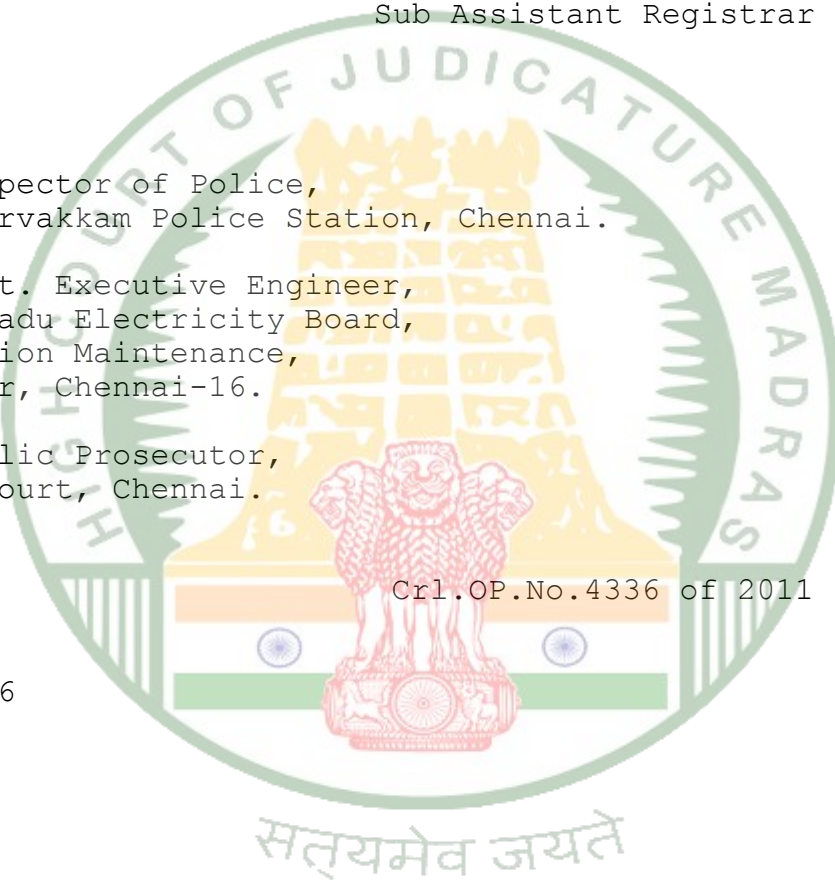
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To

1. The Inspector of Police,
Walasarvakkam Police Station, Chennai.
2. The Asst. Executive Engineer,
Tami Nadu Electricity Board,
Operation Maintenance,
Alandur, Chennai-16.
3. The Public Prosecutor,
High Court, Chennai.

Cr1.OP.No.4336 of 2011

KSJ(CO)
Eu 30.11.16



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