



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2016

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA

CrI.O.P. (MD) .No.11125 of 2016

WEB COPY

1.V.Srinivasan

2.M.Ponraj

.. Petitioners/Accused 1 & 2

Vs.

1.The State rep.by

Inspector of Police,
G2 Karimedu Crime Section,
Madurai District,
Crime No.26/2001.

2.Murugesan

The Assistant Engineer,
The Assistant Engineer Office,
Tamilnadu Electricity Board,
Subramaniyapuram,
Madurai District.

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C. No.19 of 2013 on the file of the Principal District Court, Madurai and to quash the same.

For Petitioner : M/s.A.Banumathy

For R - 1 : Mr.A.P.Balasubramani,
Government Advocate
(Criminal side)

For R - 2 : M/s.S.M.S.Johnny Basha

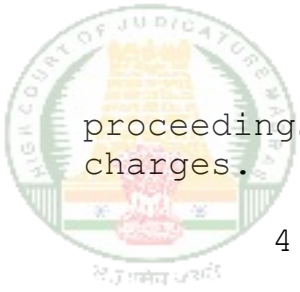
ORDER

This petition has been filed praying to quash the proceedings in C.C.No.19 of 2013 pending on the file of the Principal District Court, Madurai.

2.A case has been registered against the petitioners/Accused Nos.1 & 2 in Crime No.26 of 2001 for the offences under Sections 39(1), 44(1)(c) of the Indian Electricity Act, 1910 r/w Section 379 IPC. After completing investigation, final report has been filed and the same has been taken on file in C.C.No.19 of 2013 on the file of the Principal District Court, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

3.In order to consider the demand for quash of



proceedings, it is necessary to consider the nature of the charges.

4. Section 39(1) of the said Act reads as under:

"Theft of energy:-Whoever dishonestly abstracts, consumes or uses any energy shall be punishable with imprisonment for a term, which may extend to three years, or with fine, which shall not be less than one thousand rupees, or with both: and if it is proved that any artificial means not authorised by the licensee exist for the abstraction, consumption or use of energy by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of energy has been dishonestly caused by such consumer."

5. Section 44(1) (c) of the said Act reads as under:

Penalty for interference with meters or licensee's works and for improper use of energy.-whoever-

(a) Connects any meter referred to in Section 26, sub-section (1), or any meter, indicator or apparatus referred to in Section 26, subsection(7), with any electrive supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line; or

3[(aa)

(b) ...

(c) Maliciously injures any meter referred to in Section 26, sub-section (1), or any meter. Indicator or apparatus referred to in Section 26, sub-section (7), or wilfully or fraudulently alters the index of any such meter, indicator or apparatus, or prevents any such meter, indicator or apparatus from duly registering; or "

6. Apart from the prosecution, penalty of Rs.60,000/- was also imposed upon the accused/petitioners herein on account of the alleged theft of energy.

6(a). Challenging the imposition of penalty, the petitioners herein filed a suit in O.S.No.43 of 2001 on the file of the Principal District Munsif Court, Madurai. The suit was dismissed and challenging the same, an appeal in A.S.No.158 of 2005 has been filed before the Second Additional Sub Court, Madurai and that also met with the same fate of dismissal on 20.12.2005. Challenging the same, Second Appeal (MD) No.63 of 2016 has been filed before this Court.



7. During pendency of the said Appeal, there was a compromise between the parties and based on which, the case was listed before the Lok-Adalat on 11.06.2016. The learned counsel appearing for the second respondent represented before the Lok-Adalat that the petitioners herein have paid a sum of Rs.61,974/- to the second respondent/de facto complainant and in view of the settlement reached, the Second Appeal was disposed of.

8. So far as the prosecution is concerned, the Lok-Adalat has made an observation that if it is compoundable offence, it could be compounded, otherwise, steps should be taken to get the proceedings quashed. Accordingly, this Petition has been filed citing the fact that already the matter has been settled in the Lok Adalat.

9. The penal provisions with regard to Sections 39(1) and 44(1)(c) of the Indian Electricity Act, 1910 would go to show that the offences are punishable with imprisonment for a term, which may extend to three years or with fine or with both.

10. The learned counsel for the second respondent would submit that the theft of energy had been the continuing offence and therefore, extent of energy theft cannot be calculated and therefore, fine should be imposed on the petitioners before quashing the proceedings. The learned counsel for the petitioners would submit that considering the amount of Rs.61,974/- having been paid and also considering the factum of settlement *ipso facto*, minimum fine should be imposed.

11. Under the provision of Section 39(1) of the Indian Electricity Act, 1910, fine amount shall not be less than Rs.1,000/-.

12. Considering the provision of Section 39(1) of the said Act, the petitioners are directed to pay the minimum amount of Rs.1,000/- to the credit of C.C.No.19 of 2013 on the file of the Principal District Court, Madurai, as fine amount.

13. Subject to the said condition, the entire proceedings in C.C.No.19 of 2013 pending on the file of the Principal District Court, Madurai are quashed against the petitioners/accused 1 & 2.

14. The Petition is ordered accordingly.

sd/-

Assistant Registrar(CS-I)

/True copy/



To

1.The Principal District Judge, Madurai

2.The Inspector of Police,
G2 Karimedu Crime Section,
Madurai District.

3.The Addl.Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/s.A.Banumathy, Advocate in SR.No.36321

+1 cc to M/s.S.M.S.Johny Basha, Advocate in SR.No.35866

mj

CSL/NGM-MP/SAR-III/25.072=.2016 :4P/6C

CrI.O.P (MD) No.11125 of 2016
12.07.2016