

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.338 of 2016
and
Crl.M.P.No.2299 of 2016

L.Nallasivam

... Petitioner/Accused No.2

Vs

State rep. By
The Inspector of Police,
Erode North Police Station,
Erode.
(Crime No.419 of 2004)

... Respondent/Complainant

Prayer:- Criminal Revision filed under Section 397 r/w 401 of Cr.P.C., to set aside the order dated 17.12.2015 made in Crl.M.P.No.26 of 2015 in S.C.No.34 of 2005 on the file of the Second Additional District and Sessions Judge, Erode.

For Petitioner : Mr.V.P.Sengottuvel

For Respondent : Mr.R.Ravichandran,
Gov. Adv. (Crl. Side)

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ORDER

Challenging the order passed by the learned II Additional District and Sessions Judge, Erode, in C.M.P.No.26 of 2015 in S.C.No.34 of 2005, rejecting the petitioner's application to compound the offence, the present revision has been filed.

2. Earlier a crime was registered against the petitioner for the offences under Sections 135(1)(a) and 135(1)(b) of Indian Electricity Act, subsequently, a final report has also been filed and taken on file in S.C.No.34 of 2005 on the file of the II Additional District and Sessions Court, Erode. Pending case, the petitioner filed an application under Section 152 of Indian Electricity Act for compounding the offence. The court below dismissed the application holding that already the petitioner was charged for the same offence and he has also paid compounding fees and in view of the bar contained under Section 152 of Indian Electricity Act, he cannot be permitted to compound the offence again.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the first time offender, and no previous case was pending against him, he did not compound for any offence previously. Hence, the bar for compounding under Section 152 of Indian Electricity Act, is not applicable to him, under Section 152(1) he may be permitted to compound the offence.

4. This Court directed the learned Government Advocate (Crl.side) appearing for the respondent to verify whether any previous case was registered against the petitioner, and the offence has been compounded by him.

5. Today, the learned Government Advocate (Criminal side), on instruction, submitted that except this case, no case was registered against the petitioner.

6. Taking into consideration of the above said submission, since there is no case was registered against the petitioner previously and no offence was compounded, the bar under Section 152(4) of Indian Electricity Act, is not applicable to the petitioner, and in view of the mandatory provision under 152(1) of the Indian Electricity Act, the petitioner can be permitted to compound the offence.

7. In the above circumstances, the Order of the court below is liable to be set aside. The learned counsel appearing for the petitioner submitted that pending the revision petition, on 06.02.2017, the Electricity Board also received a sum of Rs.60,000/- as compounding fees.

8. Taking into consideration of the above fact, the impugned order passed by the court below is set aside, and since the petitioner has also deposited the compounding fee before the Electricity Board, the offence against the petitioner stand compounded. The letter sent by the Electricity Board, dated

06.02.2017 in No.273/2017, shall form part of the record.
Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

mrp

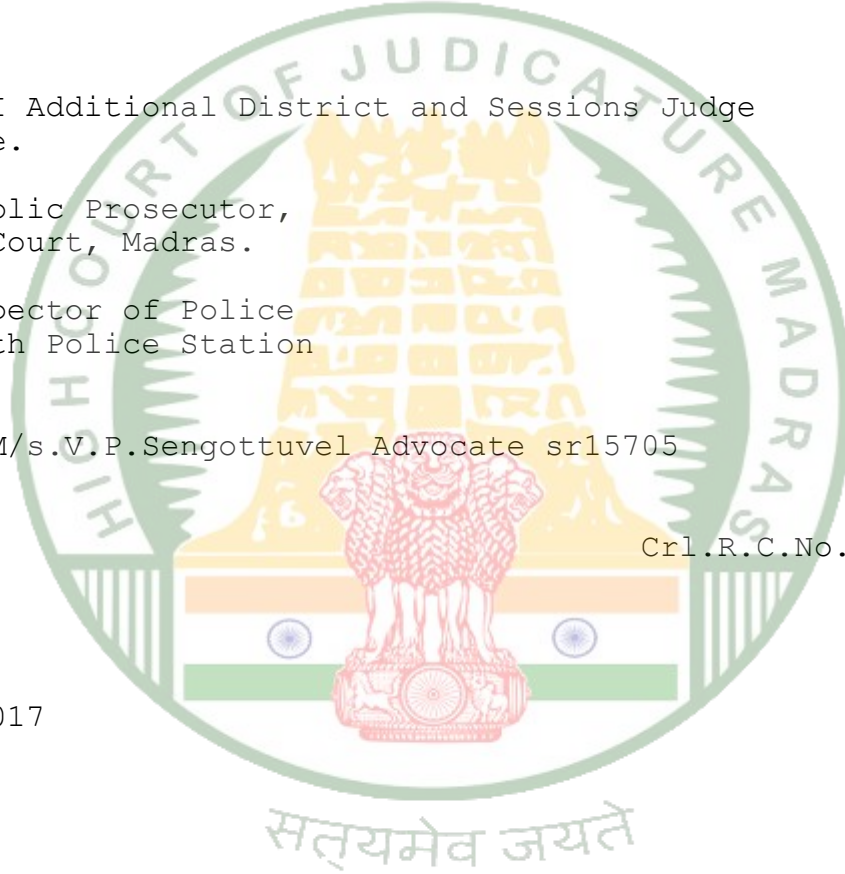
To

1. The II Additional District and Sessions Judge
Erode.
2. The Public Prosecutor,
High Court, Madras.
- 3.The Inspector of Police
Erode North Police Station
Erode

+1 cc to M/s.V.P.Sengottuvel Advocate sr15705

Cr1.R.C.No.338 of 2016

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