IN THE HIGH COURT OF JUDICATURE AT MADRAS

[Reserved on : 11.06.2018]

[Pronounced on : 25.07.2018]

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.413 of 2018
and
Crl.M.P.Nos.5003 and 5004 of 2018

Kondapatti Anil Kumar ... Petitioner/Accused No.2

Vs

1. State represented by
The Inspector of Police,
"O" Circle, Yanam.
(Crime No.48 of 2012) ... 1st Respondent/Complainant

2. Takyane Syam Sundara Rao
3. M.Rangadhama Chowdary
4. M.Krishna ... Respondents 2 to 4/ Accused Nos.1, 3 and 4

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., against the order dated 16.02.2018 made in Cr.M.P.No.886 of 2016 in Spl.C.C.No.2 of 2015 on the file of the Special Judge (Under the Electricity Act, 2003) at Puducherry.

For Petitioner : Mr.R.Bharath Kumar
For R-1 : Mr.Bharadha Chakravarthi
Public Prosecutor (Puducherry)
For RR-2 to 4 : Notice sent. Service awaited

ORDER

This Criminal Revision Case is filed by the petitioner/A.2 against the order dated 16.02.2018 passed by the learned Special Judge (Under the Electricity Act, 2003) at Puducherry, in Crl.M.P.No.886 of 2016 in Spl.C.C.No.2 of 2015

2. The second accused in Spl.C.C.No.2 of 2015 is the petitioner in Crl.M.P.No.886 of 2016 and he has filed the said petition under Section 239 of Cr.P.C. praying to discharge him from the charges levelled against him by the first respondent police in Crime No.48 of 2012.

3. Learned counsel appearing for the revision petitioner submitted that the Assistant Engineer (O & M), Electricity Department, Yanam, has lodged a complaint with the first respondent police as against the petitioner herein/A.2 in Spl.C.C.No.2 of 2015 and the other accused alleging that during the inspection of the company viz., Kanaga Durga Castings Pvt. Limited, Adavipolem, they found that the the company had committed theft of electricity by tampering the meter by making an additional wiring in the CT-PT unit of metering. It is further submitted that the petitioner namely, Kondapatti Anil Kumar/A.2 was Director of the above said Company in the year 2003 but he has rendered his resignation letter to the said company and the same was also accepted by the company on 06.12.2011 and at the time of the inspection, he was not the Director of the company and hence, the petitioner/A.2 has not participated in the activities of the company since 06.12.2011 while the FIR in the instant case was registered on 29.02.2012 and hence, he cannot be connected with the alleged crime and prayed to discharge him from the case.

4. Learned Government Advocate would contend that A.1 to A.4 are said to be the Directors of the said company and at the time of inspection, the petitioner/second accused was present in the company and he put his signatures in some papers on behalf of the company during the inspection i.e., on 27.03.2012 as consumer and thereby, the present petitioner/second accused is liable for the offence and further, in other inspections documents also, the petitioner/A.2 had put his signatures as authorised signatory for the company and thereby, he is also liable for the crime.

5. On perusal of the typed set of papers, it is stated that the petitioner/A.2 was not Director of the company on the date of the alleged inspection. But however, from the seizure report and the other reports made on the date of the inspection by the Anti Power Theft squad, the petitioner/A.2 was very much present and he has put his signatures as authorised signatory of M/s.Kanaga Durga Castings (P) Ltd., and also put his signature as a consumer in the document of releasing of Kanaga Durga 11 KV Feeder Energy Meter at Adavipolam Sub Station Form dated 28.03.2012. Therefore, the contention of the petitioner/second accused that even prior to the date of the alleged inspection by

Anti Power Theft squad, he has resigned from the post is one thing however, he has actively participated in the activity of the company is another thing and he has also signed in all the seizure mahazars which have been seized in his presence as could seen from the final report. After going through the provision under Section 135 (1) (b) and (d) of the Electricity Act, a person, who is actively running the company or put his signatures as authorised signatory can be prosecuted.

6. Accordingly, I do not find any infirmity or illegality in the order passed by the learned Principal Sessions Judge, Puducherry, for different reasons, as stated above. On a perusal of the statements of the witnesses examined by the police and recorded under Section 161 of Cr.P.C. and also other documents relating to the seizure and also on perusal of the inspection reports made ready during the time of inspection, I find that there is sufficient material available to presume that the petitioner herein/A.2 has committed the alleged theft of electricity. Accordingly, I am not inclined to interfere with the order passed by the trial Court and hence, this criminal revision case is liable to be dismissed.

7. In the result, this Criminal Revision Case is dismissed and the order dated 16.02.2018 passed by the learned Special Judge (Under the Electricity Act, 2003) at Puducherry, in Crl.M.P.No.886 of 2016 in Spl.C.C.No.2 of 2015 is confirmed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Special Judge (Under the Electricity Act, 2003), Puducherry.

2. The Inspector of Police, "O" Circle, Yanam.

3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Bharath kumar, Advocate, S.R.No.50448

+1cc to The Public Prosecutor Puducherry., S.R.No.50529

+1cc to the Government Pleader, S.R.No.

Crl.R.C.No.413 of 2018

NA(CO)
GSP(06/08/2018)