

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.11802 of 2019

M/s. Reliance Jio Infocomm Limited  
represented by its Legal Manager,  
D.Kalaimani

...Petitioner

-Vs-

1.The Assistant Commissioner of Police,  
Ambattur, Chennai 600 053.

2.The Inspector of Police,  
Ambattur Police Station,  
Ambattur, Chennai 600 053.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondents herein to provide adequate police protection to the petitioner company and its staff and subordinates to erect commissioning of equipments and to radiate the transmission tower at the lease site namely vacant site measuring 2328 sq.ft., in Plot Nos.E & F, "Sri Shahstha Nagar", S.No.33/1, Menambedu Village, Ambattur Taluk, Thiruvallur District.

For Petitioner : Mr.N.R.Anantha Rama Krishna

For Respondents : Mr.M.Mohamed Riyaz  
Additional Public Prosecutor

O R D E R

This petition has been filed to direct the respondents herein to provide adequate police protection to the petitioner and to radiate the transmission tower at the lease site namely vacant site measuring 2328 sq.ft., in Plot Nos.E & F, "Sri Shahstha Nagar", S.No.33/1, Menambedu Village, Ambattur Taluk, Thiruvallur District.

2.The case of the prosecution is that the petitioner submits that in order to erect the cell phone towers, the petitioner company entered into a lease agreement with landlady for a

period of fifteen years. The landlady lodged a complaint before the 2<sup>nd</sup> respondent police and obtained CSR No.182 of 2019. Though cognizable offences were made out on the complaint no progress was made by the respondents. The petitioner also presented a fresh complaint in person to the 2<sup>nd</sup> respondent on 20.04.2019. there is no response by the respondents. Hence, the petitioner filed this Criminal Original Petition.

3.The learned counsel appearing for the petitioner would submit that the issue involved in this petition is covered by the earlier Judgments of this Court. The learned counsel brought to the notice of this Court the order passed by this Court in CrI.O.P.No.16618 of 2018, wherein the very same petitioner was a party.

4.It will be appropriate to extract the relevant portions of the order in CrI.O.P.No.16618 of 2018, which is extracted hereunder:-

"2.The learned counsel for the petitioner would submit that the petitioner's company had the contract agreement for installation of cell phone tower with M/s.Indus Towers Limited, a company registered under the provisions of Indian Companies Act, 1956. It is further submitted by the learned counsel for the petitioner, that whenever the petitioner's company attempted to erect transmission cell phone tower, publics are causing interference. The learned counsel for the petitioner also submitted that by order dated 05.03.2015, the Honourable First Bench of this Court, in W.P.Nos.24976 of 2008 and etc., batch, held that because of the advancement in the science, no one has prevented to erect cell phone towers. It is also submitted that the petitioner has given a complaint dated 24.02.2016 to the first respondent police seeking police protection, for which C.S.R.No.42 of 2016 and since the same has not been considered so far, he has come up with the present petition for the relief stated supra.

3.Heard the learned Additional Public Prosecutor appearing for the respondent.

4.Considering the facts and circumstances of the case, the petitioner is directed to send a fresh representation to the respondent and on receipt of the same, the respondent is directed to consider the representation to be submitted by the petitioner and pass appropriate orders on merits and in accordance with law, within a period of one week from the date of receipt of

copy of this order

5. With the above directions, this Criminal Original Petition is disposed of."

5. This Court has consistently taken the view that no one can be prevented from erecting the cell phone towers on a mere apprehension about the effect of radiation from the cell phone tower. The apprehension does not have a scientific backing. Till a positive finding is given in this regard, cell phone towers cannot be prevented to be installed on mere apprehensions.

6. For the reasons stated above, there shall be a direction to the respondents police to provide police protection to the petitioner for erection of the cell phone tower. The respondents police shall ensure that the entire process goes on in a smooth manner, without giving rise to any law and order problem.

7. Accordingly, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (AD IV)

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner of Police,  
Ambattur, Chennai 600 053.

2. The Inspector of Police,  
Ambattur Police Station,  
Ambattur, Chennai 600 053.

3. The Public Prosecutor,  
High Court of Madras.

+1cc to Mr. N. R. Anantha Rama Krishnan, Advocate Sr. 42344

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srg 30/05/2019