



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

Crl.O.P(MD) . No.12789 of 2015

and

MP(MD)Nos.1 and 2 of 2015

WEB COPY

R.Sivalingam

... Petitioner/3rd Accused

Vs

1.The State Rep. by the
Inspector of Police,
Villoor Police Station,
Madurai District.

... Respondent/Complainant

2.K.Alagappan

... Respondent/De-facto complainant

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records pertaining to the C.C.No.80 of 2014, on the file of the learned Judicial Magistrate, Peraiyoor filed by the first respondent and quash the same as illegal so far as the petitioner's concerned.

For Petitioner

: M/s.Syed Seeni Amma
for M/s.T.Lajapathi Roy

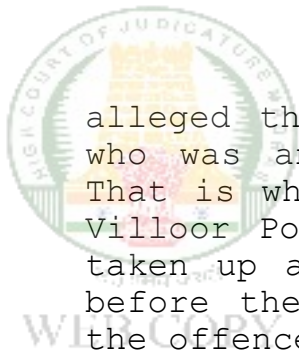
For Respondents

: Mr.A.Robinson
Government Advocate (Crl. Side)
for (R1)
Mr.S.Moorthy (for R2)
Respondent No.2

ORDER

The petitioner is shown as Accused No.3 in C.C.No.80 of 2014, on the file of the learned Judicial Magistrate, Peraiyoor. He along with two others are facing trial for the offences punishable under Sections 109, 420, 468, 341 and 506(i) of IPC.

2.The second respondent is the de-facto complainant. The second respondent is owning the house bearing Door No.8/28 in Kaliyamman Kovil Main Road, Villoor. The 2nd accused/Rajendran wanted electricity connection and the electricity lines were to run over the property of the de-facto complainant/Alagappan. The specific allegation of the de-facto complainant is that bogus documents were furnished by the 2nd accused in conspiracy with the first accused and it was made to appear that the electricity connection will run only over a common pathway and not on the private land of the de-facto complainant. The de-facto complainant



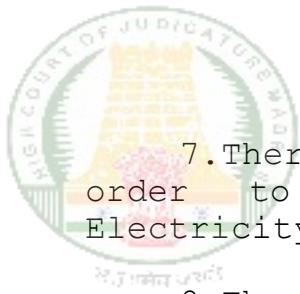
alleged that based on the bogus documents, the petitioner herein, who was an official in TANGEDCO, granted electricity connection. That is why, he lodged information before the Inspector of Police, Villoor Police Station in Crime No.17 of 2012. Investigation was taken up and final report was filed against all the three accused before the learned Judicial Magistrate, Peraiyoor. Cognizance of the offences was taken.

3. Heard the learned counsel on either side.

4. From a reading of the materials placed on record, it is seen that A-2/Rajendran applied for grant of electricity supply connection. The petitioner herein had returned the application by calling upon A-2 to get No Objection Certificate from the de-facto complainant. Thereafter, A-2 had produced material before the petitioner for making it appear as if the electricity lines were to be drawn only over a common pathway. Believing the same, this petitioner herein had rejected the objection of the second respondent herein and granted electricity service connection. The connection was given on 24.09.2010. Even according to the de-facto complainant, the facts came to light only on 21.02.2011. I am of the view that when the electricity connection was given, the petitioner was of the *bona fide* view that the documents furnished by the applicant/A2/Rajendran were in order.

5. The petitioner's counsel would draw my attention to Section 168 of the Electricity Act 2003, according to which an officer or public servant acting in good faith cannot be saddled with criminal prosecution for acts done under the Electricity Act 2003 or the rules or regulations made thereunder. In this case, the petitioner had clearly taken action in good faith and therefore, he is entitled to the protection set out in Section 168 of the Electricity Act 2003. I am of the view that the continuance of the impugned prosecution against the petitioner herein would be an abuse of legal process. Therefore, the impugned proceeding stands quashed as far as the petitioner is concerned.

6. But then, the matter cannot rest there. As rightly pointed out by the learned counsel for the de-facto complainant, when the facts came to light, consequential action ought to be taken. The learned counsel for the de-facto complainant drew my attention to the order dated 23.10.2017 made in W.P.(MD)No.3011 of 2011. The learned Single Judge had directed the Assistant Executive Engineer, TNEB, Thirumangalam, Madurai, to pass an order, on the representation dated 21.02.2011, submitted by Thiru.Alagappan/de-facto complainant herein. The de-facto complainant would point out that till date no consequential action has been taken. The specific case of the de-facto complainant is that by furnishing bogus documents, electricity connection was obtained. If the said allegation turns out to be true, consequential action ought to be taken by the EB authorities.



7. Therefore, the registry is directed to mark a copy of this order to Mr. Mangalanathan, Executive Engineer, Tamil Nadu Electricity Board, Sengkulam, Thirumangalam, Madurai-625706.

8. The occurrence is said to have been taken place in the year 2010-11. Cognizance of the offences was taken in the year 2014. We are now in the year 2019. Therefore, the learned Judicial Magistrate, Peraiyoor is directed to conclude the trial on merits and in accordance with law within a period of six months from the date of the receipt of a copy of this order.

9. With this direction, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

sjj

To

1. The Judicial Magistrate, Peraiyoor.

2. The Chief Judicial Magistrate, Madurai.

3. The Inspector of Police,
Villoor Police Station,
Madurai District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

Mr. Mangalanathan,
Executive Engineer,
Tamil Nadu Electricity Board,
Sengkulam, Thirumangalam, Madurai-625706.

+1 CC to Mr. T. LAJAPATHI ROY, Advocate (SR-95076[F] dated 31/10/2019)

+1 CC to Mr. S. MOORTHY, Advocate (SR-95164[F] dated 31/10/2019)

Crl.O.P (MD). No.12789 of 2015
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VB(17.02.2020) 3P 8C

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