



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD) No.4606 of 2016 and

CRL.M.P. (MD) Nos.2303 & 2304 of 2016

K.Periyasamy

... Petitioner/Accused No.8

Vs.

The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam,
Virudhunagar District.

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to quash the charge sheet in S.C.No.87 of 2007 on the file of the Assistant Sessions Court, Srivilliputhur, in so far as petitioner is concerned.

For Petitioner
For Respondent

: Mr.RM.Arun Swaminathan
: Mr.A.Robinson,
Government Advocate (Crl. Side)

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O R D E R

The petitioner is figuring as accused No.8 in Spl.S.C. No.51 of 2018 on the file of the Principal District Court, Srivilliputhur.

2. It is a case of energy theft. The petitioner's counsel would submit that even though the occurrence took place on 03.09.2005, the authorities have chosen to later prosecute the case under the repealed Act. The co-accused had already moved this Court for quashing the proceedings on this ground and the same was also allowed. The petitioner's counsel brought to my notice, an order dated 08.12.2009 in Crl.O.P. (MD) No.1047 of 2008 which is as follows:-

"3. On perusal of the entire records it is seen that the petitioners are said to have committed the offences under Section 379 of I.P.C. r/w Section 39 of Indian Electricity Act. The main grievance of the petitioners is that the charges against the petitioners under the provision of Electricity Act is concerned, which has already been repealed and at the time of filing of the complaint there is no provision to prosecute the petitioners under the said Act. The other offence alleged against the petitioners is under Section 379 of I.P.C. Even according to the



learned counsel for the respondent, 379 of I.P.C. is not attracted since electricity cannot said to be a movable property.

4. In view of the stand taken by the respondent herein and after perusing the entire records, this Court is of the view that no purpose would be served in proceeding this matter. Accordingly, this Court is inclining to quash the charge sheet filed against the petitioners.

5. Accordingly, this Criminal Original petition is allowed and the charge sheet filed against the petitioners in S.C.No.87 of 2007 on the file of the learned Assistant Sessions Judge, Srivilliputhur, is hereby quashed. Consequently, connected miscellaneous petition is also closed."

The said order was followed in Crl.O.P.(MD)No.12143 of 2009 vide order dated 23.12.2009.

3. The petitioner's case is on the same footing. Therefore, the impugned proceedings stand quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)

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To:

1. The Assistant Sessions Judge,
Srivilliputhur.

2.The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam,
Virudhunagar District.

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

+1 CC to M/s.RM.ARUN SWAMINATHAN, Advocate (SR-104550[F] dated 11/12/2019)

Crl.O.P.(MD)No.4606 of 2016

11.12.2019