

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.18216 & 17543 of 2015 and
Crl.M.P.Nos.1 & 1 of 2015

1.J.Amali Victoria

2.M.Jesuraj

.... Petitioners in both cases

Vs.

State by:

1.The Inspector of Police,
K-1, Sembium Police Station,
Chennai.
(Crime No.119/2009)

2.M.Manivannan,

Assistant Executive Engineer (O&M),
Sembium,
Chennai.

.... Respondents in both cases

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the First Information Report registered by the 1st respondent in Crime Nos.119 & 120 of 2009 respectively.

In both cases:

For Petitioners : Mr.M.S.Charles

For Respondents : Mr.C.Iyyappa Raj

Additional Public Prosecutor

COMMON ORDER

Criminal Original Petitions are filed to quash the FIR in Crime Nos.119 & 120 of 2009 on the file of the 1st respondent Police.

2.The 2nd petitioner, M.Jesuraj, is no more. The case of the prosecution is that on 07.03.2009, the 2nd respondent / the Assistant Executive Engineer (O&M), Tamil Nadu Electricity Board, Chennai, lodged a complaint against the petitioners. The 2nd respondent along with his officials conducted an inspection in the premises of M/s.J.P.R Plastics, the 2nd petitioner is the

Proprietor. The said factory is situated in the portion of the residence of the petitioners and availed energy supply. While recording the reading of meters on 07.02.2009 at about 09.45 p.m., the Electricity Board officials verified the meters. At that time, M/s.J.P.R was functioning and it was found that the seal found in the top portion of the meter was damaged and it was found with forged seals. Thereafter, the Assistant Engineer from Meter Reading summoned and the meter was verified. It was found that the meter has been tampered with and energy theft committed by creating bypass in supply of energy without passing through the meter and thereby, committed the offence under Section 153A r/w (1)(b) of the Indian Electricity Act, 2003 r/w 380 IPC.

3.Further, Observation Mahazar, Recovery Mahazar were prepared in the scene of occurrence and it was found that three meters bearing numbers (i)065-001-901 (ii)065-001-551 (iii)065-007-901 have been tampered with and energy theft committed by the petitioners and thereby, TNEB sustained loss to the tune of Rs.11 lakhs. The inspection of meters was carried out at M/s.J.P.R Plastics, No.23, Anna Nagar, 1st Street, Vyasarpadi, Chennai and at other two electricity service connections bearing service connection No.065-01-649 and 065-01-893 for his company unit situated at No.3/90, Nagavalli Amman Kovil, Street, Vyasarpadi, Chennai. Hence, the petitioners have committed the above offences and FIR came to be registered. The FIR in Crime No.119 of 2009 pertains to energy theft at No.23, Anna Nagar, 1st Street, Vyasarpadi, Chennai and the Crime No.120 of 2009 pertains to energy theft at No.3/90, Nagavalli Amman Koil Street, Vyasarpadi, Chennai.

4.The contention of the learned counsel for the petitioners is that the 2nd petitioner is the husband of the 1st petitioner. The 2nd petitioner looking after the entire business and production activities of M/s.J.P.R Plastics. The 1st petitioner is a house wife. Other than the power connection is taken in the name of the 1st petitioner, she has no role in the activities of M/s.J.P.R Plastics and commission of offence. Further, the 1st petitioner is not aware and nothing have taken place with her knowledge. It is further submitted that her husband/2nd petitioner namely M.Jesuraj, is no more. The Tamil Nadu Electricity Board has disconnected the power connection in the premises of the petitioners. For the disconnection and restoration of the electricity service connection, the petitioners approached this Court in W.P.Nos.5803 & 5804 of 2009. This Court by order 23.04.2019 had restored the connection on the condition, directing the petitioners to pay Rs.10,00,000/- to the Tamil Nadu Electricity Board and the same is complied with. Thereafter, the complaint by the officials of Tamil Nadu Electricity Board ought to have been withdrawn.

5.He further submitted that admittedly, no mahazars were drawn in the presence of the 1st petitioner. The 1st petitioner is a house wife, which is not disputed. In view of the condition of this Court in W.P.No.5805 & 5804 of 2009 an amount of Rs.10,00,000/- has been paid to TNEB, both the cases are to be quashed.

6.The learned Additional Public Prosecutor appearing for the respondent submitted that in this case the Assistant Executive Engineer of TNEB along with team members conducted inspection in the factory premises of the petitioners and found that the meter seal was tampered with and damaged by creating by pass and committed energy theft to the tune of Rs.11 lakhs. Further, in the presence of 2nd petitioner, Observation Mahazar, Recovery Mahazar were prepared. The major part of the investigation is completed. On receipt of the Forensic Report, charge sheet would be filed. The investigation, so far, conducted clearly proved the petitioners had taken active part in the commission of energy theft.

7.Considering the rival submissions and on perusal of the materials, it is seen that it is not in dispute that the officials of TNEB conducted an inspection in M/s.J.P.R Plastics and found the tampering of meters and thereby, committed the energy theft to the tune of Rs.11 lakhs. In the presence of 2nd petitioner, the Observation Mahazar and Recovery Mahazar were recorded. The Assistant Executive Engineer from MRTS verified the original meter seal affixed and found the meter seal was tampered with, meters damaged by creating by pass in committing energy theft. The meters have been seized and sent to Forensic Study.

8.The Tamil Nadu Electricity Board has disconnected the power connection in the premises of the petitioners. For restoration of service connection, the petitioners approached this Court in W.P.Nos.5803 & 5804 of 2009. This Court by order 23.04.2019 restored the connection on the condition directing the petitioner to pay Rs.10,00,000/- to the Tamil Nadu Electricity Board and the same is complied with. Due to the pendency of the above, case charge sheet could not be filed in this case.

9.Further, the points raised by the petitioners are to be decided only during the trial and not in these quash petitions. Hence, the contention of the petitioners does not merit consideration.

10.In the result, the petitions are, accordingly, dismissed. However, taking into consideration the offence has been

committed in the year 2011, the respondent to complete the investigation and file a final report before concerned Court within a period of three months from the date of receipt of a copy of this order. After lifting of lock down and normal functioning of Court below. It is made clear that the observations made herein is only for the purpose of disposal of the petition. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

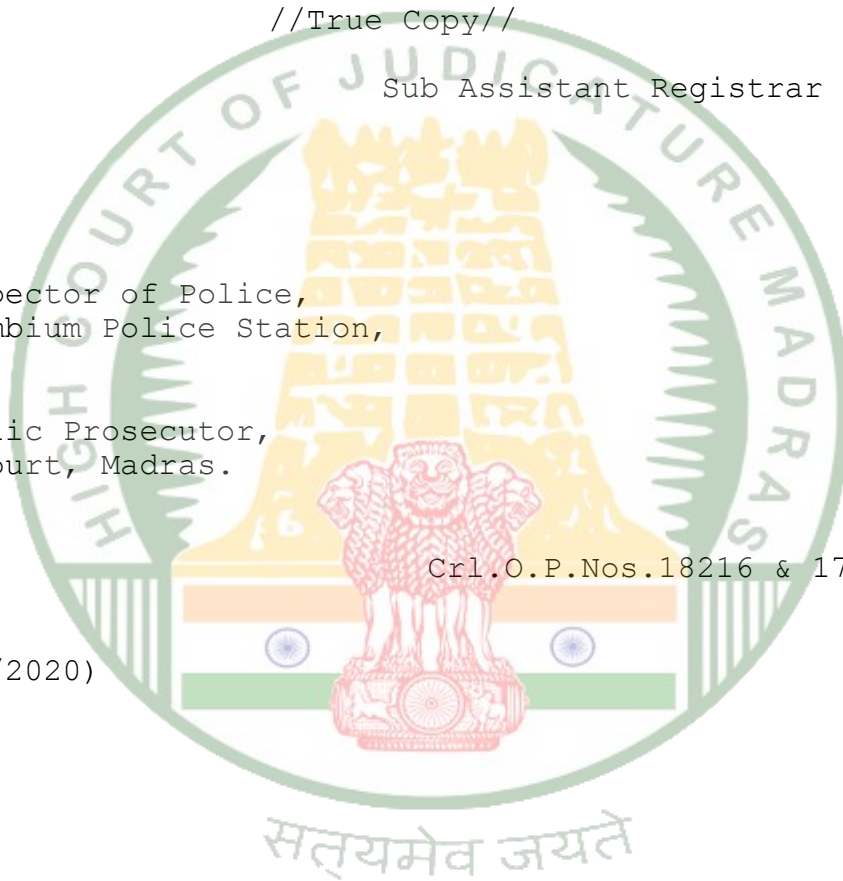
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To

- 1.The Inspector of Police,
K-1, Sembium Police Station,
Chennai.
- 2.The Public Prosecutor,
High Court, Madras.

Crl.O.P.Nos.18216 & 17543 of 2015

KK(CO)
RMP(15/09/2020)



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