



CRL OP(MD)No.8378 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 04. 07.2024
Pronounced on : 22 .07.2024

PRESENT

THE HON`BLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD) No.8378 of 2024 and
Crl MP(MD)No.5713 of 2024

1.A.Chandra Prabha

2.K.Kumaran

3.Vasanth @ Vasanth Raj

4.Raja Bilavendrandies
[wrongly mentioned as BD Raja]

5.S.Mariappan

6.S.Rajendran ... Petitioners

Vs

1.The State represented by
Inspector of Police,
Devarkulam Police,
Tirunelveli District.
[Crime No.244 of 2024]

2.Mangesh Krishna Jadhav ... Respondents



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For Petitioner : Mr.Ajmal Khan
Senior Counsel for
M/s.Ajmal Associates

For Respondents : Mr.E.Antony Sahaya Prabahar
Addl.Public Prosecutor for R-1

: Mr.Aairam K.Selvakumar for R-2

Prayer : Petition filed under Section 482 Criminal Procedure Code to call for records pertaining to FIR No.244 of 2024 on the file of the 1st respondent and quash the same as illegal.

ORDER

The petitioners are employees of Suzlon Energy Service Limited, which is a private windmill manufacturer and maintenance company. The 2nd respondent defacto complainant is the Manager of the Morries Energy Limited, Mumbai. The Morries Energy Limited has entered into an agreement with the Suzlon company for erection and maintenance of windmill in the year 2011. Accordingly, the windmill was erected in the year 2011 and it was maintained by the Suzlon company. It appears that the Morries company had some



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disputes with Suzlon company and therefore, it has entrusted the maintenance of the windmill with another company namely Vayula Energy Private Limited. It was not agreeable for the Suzlon company. There seems to be cases and counter cases in this regard.

2.The petitioners / employees of Suzlon company claim that they are in maintenance of the windmills and the defacto complainant claims that Suzlon company has not maintained the windmill properly and therefore, they have handed over the maintenance to the Vayula company. While so, the defacto complaint lodged a complaint on 27.04.2024 before the respondent Police that the petitioners / staff of the Suzlon company are not permitting them to enter into their windmill. In turn the Suzlon company has lodged a complaint that the employees of the Vayula company has broken open the windmill lock, damaged some primary parts of the windmill and are also selling some parts of the windmill. The complaint has been treated as petition enquiry in CSR No.334 of 2024, dated 28.04.2024. The 1st petitioner the Law



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Officer of the Suzlon company has lodged a complaint before the Superintendent of Police and the same was also referred to Thalaiyuthu Police Station. The Police in turn referred the matter to the Revenue Divisional Officer.

3.While so another complaint was lodged by the 2nd respondent / Manager of the Morries Company that on 22.05.2024 the petitioners have trespassed into the windmill, broken open the doors and took away module worth about Rs.4.5 lakh. It is his further case that he was abused and criminally intimidated. Based on this complaint dated 31.05.2024 a case was registered by the respondent Police in Crime No.244 of 2024, for the offence under Sections 147, 448, 427, 380,294(b), 506(2), 109 and 283 IPC. Challenging this first information report the petitioners have filed this present quash petition.

4.The learned Senior Counsel appearing for the petitioners submits that the windmill is under the petitioners' maintenance and



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the Morries company in order to avoid maintenance charges to the Suzlon company has foisted this false complaint. The learned Senior Counsel has also levelled certain allegations as against the Inspector of Police that he for some extraneous consideration is supporting the 2nd respondent and has also abused the 1st petitioner, the Law Officer of the company. He further submits that the impugned FIR came to be registered on 01.06.2024, whereas the Suzlon Company had already preferred a complaint before the 1st respondent police as early as on 28.04.2024 in respect of commission of offence by the 2nd respondent / Vayula company's employees and it was under enquiry on the file of the Thalaiyuthu Police Station in CSR No.332 of 2024. The petitioners Suzlon company had also preferred a complaint to the Superintendent of Police on 17.05.2024 and the same was enquired into by the DSP, Tirunelveli on 18.05.2024. The Suzlon company preferred another complaint on 22.05.2024 with regard to trespass and theft of windmill parts. On this complaint no action was taken.



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5.He further submits that a bare perusal of the present FIR would indicate that the said complaint is filed with an ulterior motive with the help of police, tainted with mala fides and therefore it is liable to be quashed in the light of the guideline No.7 issued by the Hon'ble Supreme Court in the decision of Bajan Lal Vs State of Haryana and Others reported in 1992 Supp (1) 335.

6.The learned Senior Counsel has also relied on the ratio laid down by the Hon'ble Supreme Court in Vineet Kumar and others Vs State of Uttar Pradesh and another reported in 2017 (13) SCC 369; Ramesh Chandra Gupta Vs State of UP and others reported in 2022 SCC Online SC 1634 and RP.Kumar Vs State of Punjab reported in AIR 1960 SC 866 in support of his contention.

7.The learned Additional Public Prosecutor submits that the *de facto* complainant Mangesh Krishna Jadhav is working as a Manager in Morries Energy Private Limited, Mumbai. The 1st petitioner / accused is a Law Officer of Suzlon company,



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which is engaged in erection and maintenance of wind energy turbines. The *de facto* complainant company is having windmill at Narikudi village under the respondent police limit. The *de facto* complainant's company has entrusted the maintenance of windmill with the Suzlon company. While so, there was some dispute between the *de facto* complainant's company and the petitioners over the maintenance of the windmill.

8.He further submits that on 27.04.2024 the *de facto* complainant lodged a complaint with the 1st respondent stating that the wind turbine generator of their windmill situated at Narikudi village was broken open and thus sought protection for their machineries. The above petition was enquired in CSR No.330 of 2024 and the Sub Inspector of Police, Devarkulam police station conducted enquiry. During the enquiry, the *de facto* complainant's company and the petitioner / accused company appeared and given their statements. The enquiry revealed that the petitioners company entered into an agreement with the *de facto* complainant's company



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for maintenance work. As such the defacto complainant company was in due for maintenance charges towards the petitioner's company. Thus both the parties consented to resolve their dispute through competent civil court and as such the petition was disposed of. He further submits that since both parties made rival claim over the possession and maintenance of wind turbine situated in Mela Narikkudi village Survey Nos.157 and 158/1A the respondent police referred the matter for adjudication under Section 145 CrPC to the Revenue Divisional Officer, Tirunelveli vide LIR No.25/2024 on 18.05.2024. The proceedings under Section 145 CrPC is pending in A5/MC/02/2024 on the file of the Revenue Divisional Officer, Tirunelveli.

9.While that being the situation on 01.06.2024 at about 11.30 hrs, the defacto complainant appeared before the respondent police and lodged a complaint stating that on 22.05.2024 at about 17.43 hrs, the 1st petitioner / A1 along with other accused persons illegally trespassed into the property of the defacto complainant and



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stealthily taken away a module worth Rs.4.50 lakh from the windmill premises. Subsequently on 29.05.2024 on the instigation of the petitioners / A1 and A2, A5, A6, the other accused persons namely A3 and A4 along with their henchman erected fencing across the pathway towards the defacto complainant's company so as to block the passage. When the defacto complainant questioned the act of the accused persons, they abused him in filthy language and held life threat against him on the point of sickle. On the strength of the above complaint, on 01.06.2024 itself, a case in Devarkulam PS Cr.No.244 of 2024, under Section 147, 448, 427, 380, 294(b), 506(ii) 109 and 283 IPC was registered against the petitioners / accused persons.

10.This Court considered the rival submissions and perused the materials placed on record.

11.The complaint is in the nature of theft of module from the 2nd respondent windmill. Though the petitioner claims that the



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Suzlon company is maintaining the windmill, they have not placed any material to show that the agreement for maintenance is in existence as on date. The petitioners claim that they are maintaining the windmill from the year 2011 and the 2nd respondent is having dues from the year 2017. The 2nd respondent claims that the Suzlon company has not maintained the windmill properly and therefore, they suffered a loss and they have also engaged another company namely Vyola Energy Limited for the maintenance. However Suzlon company is not permitting the Vyola company to maintain the windmill, obstructing their pathway by putting up fence and also taken away the module from the windmill. The case is only at the stage of investigation. This Court is not inclined to interfere with the case at the investigation stage. Whether the petitioners are in maintenance of the windmill as claimed and they have taken the module from the windmill as stated in FIR are matter for investigation. The defacto complainant claims that they are having CCTV footages.



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12.Insofar as the allegations levelled by the Senior Counsel as against the Inspector of police, this Court has also called for a report from the Superintendent of Police and the Superintendent of Police has also conducted an enquiry and filed a report that the allegations are baseless.

13.Therefore this criminal original petition is dismissed. However the investigation agency has to consider the grounds raised in support of this petition during the course of investigation and has to conclude the investigation in a fair manner. Consequently connected miscellaneous petition is also dismissed.

22.07.2024

Index: Yes / No

NCC: Yes/ No.

DSK



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To

- 1.The Inspector of Police,
Devarkulam Police,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

DSK

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