



CRL OP(MD)No.10430 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD)No.10430 of 2024
and
CRLMP(MD)No.7021 of 2024

M/s.Perinyx Neep Private Limited,
represented by its Authorised Signatory,
Babu,

... Petitioner

Vs

1.The State represented by
The Inspector of Police,
Sattankulam Police Station,
Thoothukudi District,
[Crime No.179 of 2023]

2.J.Vignesh Kumar

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 CrPC, to call for the records pursuant to the proceedings in the impugned FIR in Crime No.179 of 2023 on the file of the 1st respondent for the alleged offences under Sections 447 and 506(i) IPC and quash the same.

For Petitioner : Ms.Lakshmi Gopinathan

for M/s.Polax Legal Solutions

For Respondent : Mr.M.Sakthi Kumar,
No.1

Government Advocate (Crl Side)



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ORDER

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The petitioner is the solar manufacturing and distribution company, which is registered under the companies Act. The petitioner has installed solar power plants at Sathankulam village of Thoothukudi District and got approval for transmission of electricity line to its captive users.

2.The 2nd respondent has lodged a complaint that this petitioner without his knowledge and permission has drawn lines through his land and diminished the value of the property. When the 2nd respondent questioned the conduct of the petitioner in drawing the line without his permission, the employees of the petitioner's company are said to have criminally intimidated the 2nd respondent / defacto complainant. Therefore the 2nd respondent has lodged a complaint before the Superintendent of Police and the same was forwarded to the 1st respondent police and a case in crime No.179 of 2023 has been registered as against the petitioner and two others for the offence under Sections 447 and 506(i) IPC, challenging the same, this criminal original petition is filed.



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3.The learned Counsel for the petitioner submits that the petitioner has installed power transmission lines only after obtaining approval from the government and in agreement with the TANGEDCO and therefore, they are having every right to draw the lines as per the provisions of the Indian Telegraph Act. As per Sections 164 and 185(2)(a) of the Electricity Act 2003, powers have been conferred on the TANGEDCO and therefore, the Electricity Board as a Telegraph Authority under the Indian Telegraph Act, 1885 in performing the performance as the State Transmission Utility and the TANGEDCO permitted the petitioner to generate and distribute electricity through an agreement. She further submits that Tamil Nadu Government under Section 164 of the Electricity Act 2003, issued an order vide GO(Ms)No.16, Energy (C3) Department dated 23.02.2012 conferring the powers on the licensee to draw electricity lines for transmission of electricity, which the telegraph authority possesses under the provisions of the Indian Telegraph Act, 1885.

4.The learned Counsel by referring the decision in Power Grid Corporation of India Vs Century Textiles and Industries Limited and others submits that the Hon'ble Supreme Court has held that in a



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project of laying of electrical transmission lines by a licensee, prior consent of the land owner / occupier is not required. Therefore, according to the learned Counsel for the petitioner, the permission of the land owner is not required to draw electricity line through the 2nd respondent's land. Since the petitioner is having an agreement with TANGEDCO for transmission of electricity, the registration of FIR as against the petitioner is against law and liable to be quashed.

5.This Court considered the submission of the petitioner and perused the materials placed on record.

6.On the complaint of the 2nd respondent, the 1st respondent registered a case as against the petitioner and two others in crime No.179 of 2023 on 10.10.2023 for the offence under Sections 447 and 506(i) IPC. The case of the 2nd respondent is that he is a B.E.,graduate, is having agricultural land in S.No.507/2 to an extent of 65.50 cents, which is also fenced. His family has settled in Andhra Pradesh for their business. When he returned to his place for doing agriculture, he found that without his knowledge, the petitioner company has trespassed and drawn electric line across



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his land and therefore, he has been prevented from utilising his land. The 2nd respondent has lodged a complaint before the Superintendent of Police on 25.08.2022 and the same was treated as a petition enquiry in CSR No.687 of 2022 and therefore, he has lodged a complaint before the Superintendent of Police on 26.09.2022 and on the directions of the Superintendent of Police, the case has been registered on 10.10.2023. When the representatives of the petitioner's company appeared for the enquiry in the 1st respondent police station, they have criminally intimidated the 2nd respondent.

7.The main contention of this petitioner is that he is drawing electric line for the purpose of distribution of electricity to TANGEDCO and to the general public from their solar power plant. The agreement of this petitioner with the TANGEDCO is also enclosed in the typed set of papers. The agreement entered into by this petitioner company with the TANGEDCO dated 31.07.2021 is for wheeling of energy from their solar power generator plant to the captive users mentioned in the agreement. The captive consumers of the petitioner company are as follows:



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"1. TRIL Infor Park Limited Ramanujam IT SEZ,

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Rajiv Gandhi Salai (OMR), Taramani, Velachery, Chennai ; 2.Madras Engineering Industries Private Limited, C6 Ambattur Industrial Estate, Ambattur, Chennai; 3.Madras Engineering Industries Private Limited, Plot No.AA7, 6th Avenue Mahindra World City, Chettypuniyam, Chengalpatt, Kancheepuram; 4.Madras Engineering Industries Private Limited, 5 & 6 SIDCO, Indl Estate, Maraimalainagar, Karanai Punducher, Chengalpattu, Kancheepuram; 5. Madras Engineering Industries Private Limited, 1-26, SIPCOT Industrial Park, Pillapakkam and Navallur Village, Sriperumbudur Taluk, Kancheepuram ; 6.Oriental Hotels Limited Taj Coromandal, No.5, Nungambakkam High Road, Chennai;7.Oriental Hotels Limited Vivanta by Taj, Fishermans Cove, Covelong Beach Kovalam."

8.As per the terms and conditions, a captive user means, the end user of the electricity generated in the captive generated plant. Captive generation is defined under Section 9 of the Electricity Act



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(1) Notwithstanding anything contained in this Act, a person may construct, maintain or operate a captive generating plant and dedicated transmission lines; Provided that the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating station of a generating company.

(2) Every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use:

Provided that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the Central Transmission Utility or the State Transmission Utility, as the case may be:

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Appropriate Commission."

The duties of the generation company is also provided under
Section 10 of the Electricity Act as under:



"Section 10 - Duties of generating companies:

(1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the rules or regulations made thereunder.

(2) A generating company may supply electricity to any licensee in accordance with this Act and the rules and regulations made thereunder and may, subject to the regulations made under sub-section (2) of section 42, supply electricity to any consumer.

(3) Every generating company shall -

(a) submit technical details regarding its generating stations to the Appropriate Commission and the Authority;

(b) co-ordinate with the Central Transmission Utility or the State Transmission Utility, as the case may be, for transmission of the electricity generated by it."

9.The petitioner with the agreement can supply electricity produced by his solar power plant to the TANGEDCO, but as per the agreement, the TANGEDCO is not having any responsibility to draw the lines as per the Telegraph Act to the petitioner's company.



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The concession which has been provided to the TANGEDCO under the Telegraph Act for the distribution of electricity to the public at large cannot be taken advantage of by this petitioner company, which is a private solar power generator and supplier of electricity to its captive users. The petitioner company in the process of making their business is not entitled to enter upon and draw lines in the 2nd respondent's land, without his permission. The 2nd respondent / farmer's apprehension cannot be ruled out that due to drawing of electric lines through his land, its value would be diminished. Due to the drawing of line through a land, it cannot utilised either for agricultural purpose or for any other purpose, which the land owner wishes. The lines are crossing the land. The petitioner company in all fairness ought to have obtained necessary permission from the farmer, before drawing the line. The judgment referred to by the petitioner under the Telegraph Act for the licensee cannot be equated with the case of the petitioner, which is a solar power plant generation, which has entered into an agreement for the purpose of wheeling of energy from its solar power plant to its captive users.



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10. In view of the above, this criminal original petition is dismissed. Since the 2nd respondent has lodged a complaint on 08.07.2023, the FIR was registered on 10.10.2023 and the final report has not been filed so far, the respondent police is directed to complete the investigation and file the final report without any further delay. Consequently connected miscellaneous petition is closed

Index : Yes/No
Internet : Yes/No

30.07.2024

DSK

To

1. The Inspector of Police,
Sattankulam Police Station,
Thoothukudi 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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