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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C (MD) .No.725 of 2017

and

Crl.M.P. (MD) .No.8424 of 2017

1.Muthukamatchi

2.Boominathan

... Petitioners

-Vs-

The Sub-Divisional Magistrate,
Additional P.A to District Collector (Land) cum
Sub Collector (Full Additional In charge)
Devakottai,
Sivagangai District.

... Respondent

Prayer : Criminal Revision Case filed under Section 397 & 401 of the Code of Criminal Procedure, to call for the records relating to the order of the respondent dated 26.08.2017 in ~~M.D. 21~~ 1-6850-2017 and set aside the same and consequently allow the criminal Revision Petition.

For Petitioners

: Mr.J.Anandkumar

For Respondent

: Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

O R D E R

Challenging the order passed by the respondent/Sub Divisional Magistrate under Section 133 Cr.P.C, the present criminal revision case has been filed.

2.I have heard Mr.J.Anandkumar, learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor, appearing for the respondent and perused the records carefully.

3.The learned counsel for the petitioners would contend that the respondent/Sub-Divisional Magistrate, without following the procedure contemplated under Section 133 Cr.P.C and without issuing any preliminary order, straight away passed the final order, which is not permissible in law.

3.On a perusal of the impugned order, it is found that the Sub Divisional Magistrate has passed the impugned order, without following the procedure contemplated under Section 133 Cr.P.C and without passing any preliminary order and conduct any enquiry as



contemplated under Section 138 Cr.P.C. Under the said circumstances, the impugned order is liable to be set aside and the matter shall be remitted to the Sub-Divisional Magistrate, Devakottai, Sivagangi District to follow the procedure contemplated under Section 133 Cr.P.C.

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4. In the result, the impugned order, passed by the Sub-Divisional Magistrate, Devakottai, Sivagangi District is set aside. Consequently, this Criminal Revision Case is allowed and the matter is remanded to the respondent/ Sub-Divisional Magistrate, Devakottai, Sivagangi District to pass order, by following the due process of law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Sub-Divisional Magistrate,
Additional P.A to District Collector (Land) cum
Sub Collector (Full Additional In charge)
Devakottai,
Sivagangai District.

+1cc to M/S.J.ANAND KUMAR, Advocate SR.No.78952

vs

MAS/SV-MMS/SAR2:21.09.2017:2P-3C

Cr1.R.C(MD) No.725 of 2017
15.09.2017