

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C No.1073 of 2018
and Crl.M.P.No.12476 of 2018

Mr.G.Selvakumar

.. Petitioner

Vs

1.The Revenue Divisional Officer,
Virudachalam Revenue District,
Virudachalam,
Cuddalore District.

2.The Taluk Executive Magistrate
Cum Tahsildar,
Tittagudi Taluk,
Tittagudi,
Cuddalore District.
Respondents

Prayer:- Criminal Revision filed under Sections 397
r/w 401 Cr.P.C., to call for the entire records in pursuant to
the impugned order passed by the second respondent in his
proceedings in Na.Ka.No.A3/01/2018, dated 08.09.2018 and set
aside the same as illegal, arbitrary and not valid in the eyes
of law.

For Petitioner : Mr.A.Selvendran
For Respondents : Mr.S.Thankira,

Govt. Advocate (Criminal side)

O R D E R

The present criminal revision has been filed by the
petitioner challenging the impugned order dated 08.09.2018 in
Na.Ka.No.A3/01/2018 passed by the second respondent wherein, he
was directed to shift the business to some other place.

2.The brief facts leading to filing of this revision are as
follows :-

(i)One Mrs. Ammu, wife of Senthilvelmurugan, residing at
No.333, Main Road, Tittagudi under the instigation of her

husband, lodged a complaint to the first respondent/Revenue Divisional Officer stating that the petitioner herein running a shop for selling the fertilizer and pesticide products in the name and style of Marudhai Agencies and for the said business, the petitioner occupied the premises of the defacto complainant as godown in three rooms. Due to the existence of the pesticides in the godown, the defacto complainant and her children suffered illness and requested the petitioner herein/Selvakumar to shift his godown to some other place.

(ii)The second respondent taken said complaint on his file and after considering the facts and circumstances of the case, passed the order dated 08.09.2018 in Na.Ka.No.3/01/2018 invoking under Section 133(A) Cr.P.C directing the petitioner to shift his godown to some other place within fifteen days. Against which, the present criminal revision petition has been filed.

3.The learned counsel for the petitioner submitted that earlier, there was a civil dispute between the petitioner and the husband of the defacto complainant viz., Senthilvel Murugan. Hence, the petitioner herein along with one Muthukumar filed a Suit in O.S.No.80 of 2018 and I.A.No.114 of 2018 on the file of the Sub Court, Tittagudi against the husband of the defacto complainant and two others. The learned Subordinate Judge, Tittagudi, after entertaining the suit, passed an order of status quo in I.A.No.114 of 2018 in O.S.No.80 of 2018 on 24.04.2018. The second respondent, without considering the said order of status quo, passed the impugned order directing the petitioner to shift his godown and the same is unsustainable. Hence, the learned counsel requested this Court to set aside the impugned order and remit the matter to the 2nd respondent for fresh consideration.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the respondents and perused the materials available on record.

5.On a perusal of records, it is seen that earlier there is a civil dispute between the petitioner and to that effect, the petitioner herein filed a suit in O.S.No.80 of 2018 on the file of the Sub Court, Tittagudi and an order of status quo was also passed in the said suit. The second respondent without considering the said facts passed the impugned order directing the petitioner to shift his godown.

6.Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel for the petitioner, this Court is inclined to set aside the impugned order passed and remit the matter to the second respondent/Taluk Executive Magistrate cum Tahsildar for fresh consideration.

7. Accordingly, the order dated 08.09.2018 passed in Na.Ka.No.A3/01/2018 is set aside and the matter is remitted to the second respondent/the Taluk Executive Magistrate cum Tahsildar. The second respondent is directed to take the case on file, consider the matter afresh and pass appropriate orders on merits and in accordance with law after giving opportunity to both parties. The parties are at liberty to raise all their defence to establish their case before the second respondent.

In the result, with above direction, the criminal revision petition is disposed of. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. 1.The Revenue Divisional Officer,
Virudachalam Revenue District,
Virudachalam,
Cuddalore District.

2.The Taluk Executive Magistrate
Cum Tahsildar,
Tittagudi Taluk,
Tittagudi,
Cuddalore District.

3.The Public Prosecutor,
High Court, Madras. सत्यमेव जयते

+1 CC to Mr.A. Selvendran, Advocate sr 67009.

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and Cr1.M.P.No.12476 of 2018

SP(12/10/2018)