

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2019

CORAM

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Crl.RC.No.874 of 2013

and

M.P.No.1 of 2013

C.Saroja

... Petitioner

Vs.

1. The Sub Divisional Magistrate/
Revenue Divisional Officer,
Tiruchengode,
Namakkal District.

2. The Inspector of Police,
Tiruchengode Town Police Station,
Namakkal District.

3. The Tahsildar/
Executive Magistrate,
Tiruchengode,
Namakkal District.

... Respondents

PRAYER: Criminal Revision Case filed under Section 397 and 401 of the Criminal Procedure Code, against the order dated 18.06.2013 made in Na.Ka.No.2914-2013-C passed by the Sub-Divisional Magistrate/Revenue Divisional Officer, Tiruchengode.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.T.Shanmuga rajeswaran
Government Advocate (Crl. Side)

ORDER

This Criminal revision has been filed against the order dated 18.06.2013 in Na.Ka.No.2914-2013-C, passed by the Sub-Divisional Magistrate/Revenue Divisional Officer, Tiruchengode.

2. The first respondent has passed an order under Section 138(2) Cr.P.C. against the revision petitioner restraining her from selling water. Challenging the said order passed by the first respondent, the petitioner has filed the present revision before this court.

3. The learned counsel for the petitioner would submit that initially show cause notice was issued to the petitioner under Section 133 of Cr.P.C. On 24.05.2013, for which she offered her explanation on 31.05.2013. Subsequently, without following the procedure under Section 133 Cr.P.C., the first respondent has passed the final order straight away under Section 138(ii) of Cr.P.C. which caused prejudice to the petitioner. Without adopting the procedure contemplated under Section 133 of Cr.P.C., the first respondent has no authority to pass the final order, which warrants interference of this Court.

4. The learned Government Advocate (Crl. Side) would submit the show cause notice has been issued to the petitioner and he has not given any explanation and the matter was enquired with the public and the Village Administrative Officer and they have also stated that the petitioner has sold water. Therefore, the first respondent has passed the final order dated 18.06.2013 under Section 138(ii) Cr.P.C., and there is no need to interfere with the order.

5. Heard the learned counsel for the petitioner as well as the respondent and also perused the materials available on record.

6. A careful perusal of the final order passed by the first respondent, does not reflect whether the first respondent received explanation to the show cause notice issued by him on 25.04.2013 and also the order does not reflect that they have recorded from the Village Administrative Officer or other public and he has not given any findings regarding that enquiry, it was found that the revision petitioner is selling water. Therefore, without giving any finding, simply, has passed the order only restraining the revision petitioner from selling water.

7. On a perusal of the records, it is seen that the first

respondent has not followed the procedure as contemplated under Section 133 of Cr.P.C. However, on reading of the order, the first respondent has not given any adverse findings against the revision petitioner.

8. By this order, the petitioner is not prejudiced. Since, the learned counsel for the petitioner would submit that the petitioner is not selling water and he is taking the water to irrigate the coconut trees, the order passed by the first respondent would not prejudice to the revision petitioner if she is not selling water.

9. Though the first respondent has not followed the procedure contemplated, since the petitioner is in no way prejudiced with the order, this Court does not want to interfere with the order passed by the first respondent.

10. With the above observations, this revision is dismissed. Consequently, connected miscellaneous petition is closed.

22.08.2019

Index : Yes/No
Internet: Yes/No
Speaking order/Non speaking order

rli

To

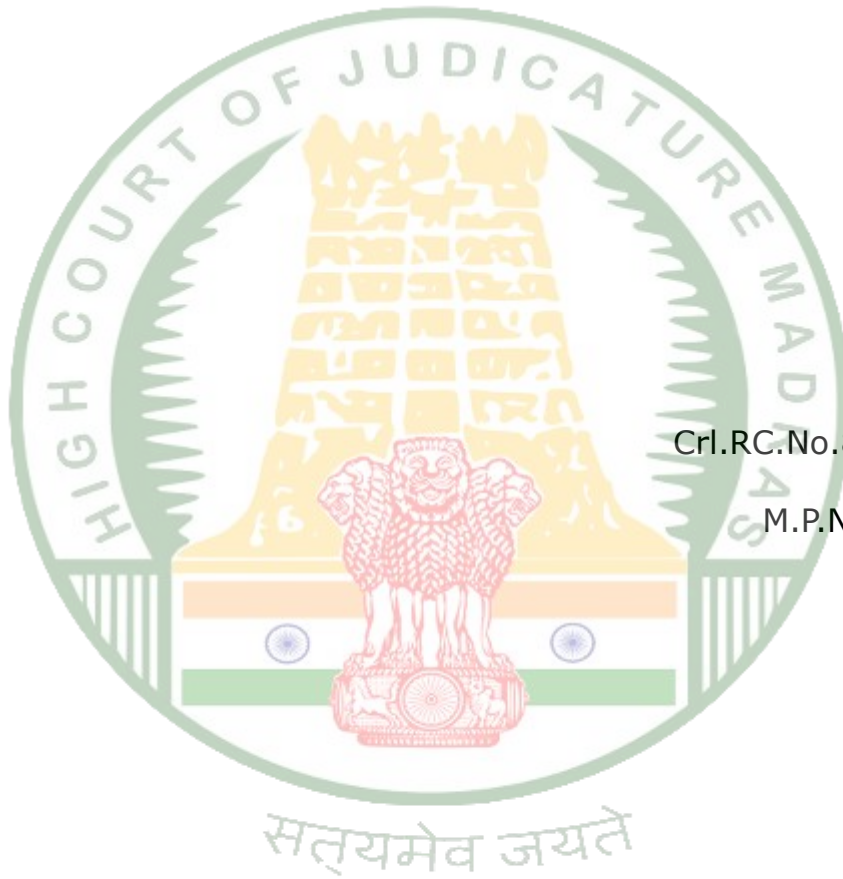
1. The Sub Divisional Magistrate/
Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
2. The Inspector of Police,
Tiruchengode Town Police Station,
Namakkal District.
3. The Tahsildar/
Executive Magistrate,
Tiruchengode,
Namakkal District.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY

P.VELMURUGAN, J.

rli



Crl.RC.No.874 of 2013
and
M.P.No.1 of 2013

WEB COPY

22.08.2019