



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.(MD)No.2731 of 2019

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N.Mohan

... Petitioner

/Vs./

1.The Superintendent of Police,
Madurai.

2.The Inspector of Police,
Othakadai Police Station, Madurai.

3.Sasidaran

4.Venkatraj

5.Kasthuri Kanmani

... Respondents

Prayer: Petition - filed under Section 482 of the Criminal Procedure Code, to direct the respondents 1 and 2 to take action under Section 133 of Criminal Procedure Code against Sasidaran, Venkatraj and Kasturi Kanmani, the respondents 3 to 5 respectively and issue a direction for removal of drainage water mixing with drinking water.

For Petitioner : Mr.N.Mohan-party in person

For R-1& R-2 : Mr.V.Neelkandan
Additional Public Prosecutor

For R3 : Mr.Kaliraj

ORDER

This petition is filed to direct the respondents 1 and 2 to take action under Section 133 Cr.P.C.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 and 2.

3. The petitioner complains of public nuisance and requires the respondents 1 and 2 to take action under Section 133 Cr.P.C.

4. The learned counsel appearing for the respondents 3 to 5 submitted that the petitioner himself is an encroacher and there is no public nuisance.

5. Suffice to say for the present that the public nuisance of this nature does not depend on ownership over the property. Even the property is owned by one, yet if nuisance is caused to the public that necessarily requires to be abated. This Court has now only made a statement, but, does not get into the rival allegations as to the existence or absence of public nuisance in the instant



case.

6. The learned Additional Public Prosecutor submitted that the matter would be referred to the Executive Magistrate.

7. Since the matter is likely to go before the Executive Magistrate and the Executive Magistrate is directed to hold such appropriate enquiry and decide the issue as to the title to the property is left open for the parties to agitate speedily before another forum of competent jurisdiction.

8. In view of the above, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Superintendent of Police,
Madurai.
- 2.The Inspector of Police,
Othakadai Police Station, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 4.The Executive Magistrate cum Tahsildar,
Madurai East
Othakudai,
Madurai.

+1cc to Mr.N.Mohan-party in person, SR.No.56186
+1cc to Mr.Kaliraj,Advocate, SR.No.46234

Order made in
Crl.O.P. (MD)No.2731 of 2019

SP/24.04.2019/2P/7C



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Dated:
22.03.2019