



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.R.C. (MD) .No.10 of 2017

M/s.Finley Marine Products,
Rep.by its Proprietor,
A.Antony Arasangamani
S/O.Antony Michael Nickolas

: Petitioner / Petitioner

Vs.

The Sub Divisinal Magistrate & Sub Collector,
Cheranmahadevi, Tirunelveli District.

: Respondent / Respondent

PRAYER: Criminal Revision Petitions have been filed under Section 397 (1) r/w 401 of Cr.P.C, to call for the records and set aside the order in A4/11920/15, dated 29.08.2016 on the file of the respondent.

For Petitioner : Mr.G.Prabhu Rajadurai.

For Respondent : Mr.R.Senthil Kumar,
Government Advocate (Crl.Side)

ORDER

The Criminal Revision Case is directed against the order passed in A4/11920/15, dated 29.08.2016 by the respondent, directing the petitioner to stop functioning of M/s.Finley Marine Products under Section 138 of Cr.P.C.

2.The learned counsel for the petitioner would submit that the petitioner has started the said concern for manufacturing of Fish Meal and Fish Oil, that he obtained necessary approval from the Town and Country Planning Department and also permission from the concerned Panchayat and established the factory, that the respondent has issued a preliminary order cum show cause notice in Form - 20, dated 12.03.2016 for removal of the unit, that the petitioner has submitted his reply dated 15.03.2016 disputing the charges leveled against the petitioner and that the respondent without conducting proper enquiry has passed the impugned order dated 29.08.2016 under Section 138 of Cr.P.C to stop functioning of the Unit immediately. He would further submit that he has filed an application for permission from the Tamil Nadu Pollution Control Board and after inspection, the Board has granted permission for running the factory vide order dated 11.11.2016 under Section 21 of Air (Prevention and Control of Pollution) Act and Section 25 of Water (Prevention and Control of Pollution) Act.

3.Today, when the matter is taken up for hearing, Mr.P.Kumar, Deputy Thasildar of Radhapuram Taluk and the learned Government



Advocate (Criminal Side) are present before this Court.

4.The learned Government Advocate (Criminal Side) would submit that after considering the reply given by the petitioner to the show cause notice and also the reports received from the Valliyoor Panchayat Union, Radhapuram Taluk, the District Environmental Engineer of Tamil Nadu Pollution Control Board, has passed the impugned order.

5.The learned Government Advocate (Criminal Side), on instructions, would submit that since the impugned order was passed on 29.08.2016 and that the revision petitioner has been running the Unit in pursuance of the orders granted by this Court, they have no objection to quash the impugned order, but, they may be granted liberty to take necessary action against the petitioner, to prevent public nuisance and if their acts are injurious/hazardous to the public health.

6.The submission made by the learned Government Advocate (Criminal Side) is recorded. Admittedly, the respondent has not produced any documents to show that he has conducted any enquiry and take evidence in the matter as in a summons case, subsequent to the reply given by the revision petitioner for the show cause notice issued under Section 133 of Cr.P.C. Hence, it is clear that the respondent has failed to comply with the mandatory requirements contemplated under Section 138 of Cr.P.C. Considering the above, this Court decides that the the impugned order in A4/11920/15, dated 29.08.2016 is liable to be quashed and is quashed.

7.The Criminal Revision Case is allowed and the impugned order in A4/11920/15, dated 29.08.2016 is quashed. The respondent is at liberty to take action against the revision petitioner to prevent public nuisance and if their commissions/omissions are injurious/hazardous to the public health, in accordance with law. No costs.

Sd/-

Assistant Registrar (CS-I)

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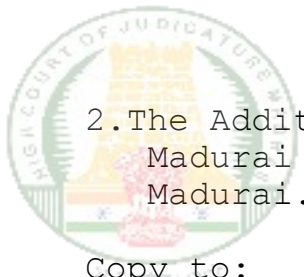
/ /2021

Sub Assistant Registrar(CS)

das

To

1.The Sub Divisinal Magistrate & Sub Collector,
Cheranmahadevi, Tirunelvli District.



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Section, (Record)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.PRABHU RAJA DURAI, Advocate (SR-22394[F] dated
13/07/2021)

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RD(22.07.2021) 3P 6C