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Crl.R.C.No.1448 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1448 of 2022
and Crl.M.P.No.16242 of 2022

1.T. Valarmathi

2.S. Mani

3.P. Karthikeyan

4.P. Boopathi

5.P. Balakrishnamurthy

6.V. Muthusamy

7.G. Saravanan

8.P. Senthilkumar

... Petitioners

Vs.

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

2.The Assistant Executive Engineer,
Public Works Department,
Water Recourses Organization,
(Sarabanga),
Rasipuram,



Crl.R.C.No.1448 of 2022

WEB COPY

Namakkal District.

3.The Inspector of Police,
Rasipuram Police Station,
Namakkal District.

4.Palanivel

5.Muthusamy

6.Mani

7.Manikandan

8.A. Muthuselvan

9.P. Ravi

10.K. Marimuthu

... Respondents

Prayer: Criminal Revision Case filed under Section 397 and 401 CrI.P.C., to call for the records pertaining to the order in Na.Ka.No.1/2022/M1, dated 21.10.2022 passed by the 1st respondent under Section 145 CrI.P.C., and set aside the same by allowing this petition.

For Petitioners : Mr.N. Manoharan

For Respondents : Mr.S. Sugendran, [R1 to R3]
Additional Public Prosecutor

Mr.J. Srinivasa Mohan
and M/s.Amritha Sarayoo
for M/s.TVJ Associates [R4 to R10]



Crl.R.C.No.1448 of 2022

WEB COPY

ORDER

This Criminal Revision has been filed challenging the impugned order of the Sub-Divisional Executive Magistrate/1st respondent passed in Na.Ka.No.1/2022/M1, dated 21.10.2022.

2. Mr.N. Manoharan, learned counsel for the petitioners would submit that the Sub-Divisional Executive Magistrate/1st respondent has not given any opportunity to the parties to put forth their case. The first respondent without passing any interim order under Section 145(1) CrI.P.C, has directly passed the final order. The learned counsel would further submit that the patta issued to the other party is only a conditional one and having been accepted the conditional patta and now objecting the revenue to raise the water level, is against the condition mentioned in the patta and therefore, the impugned order is liable to be set aside.

3. The learned counsel appearing for the respondents 4 to 10 would submit that earlier this Court has already passed an interim order dated 17.01.2006 in a Public Interest Litigation filed by the President of Chandrasekarapuram Panchayat in WP.No.41480 of 2005 and had directed



Crl.R.C.No.1448 of 2022

WEB COPY

the respondents therein to take assistance of a Senior Engineer of Tamil Nadu Water Supply and Drainage Board for the early release of water and to submit a report with proof before this Court. Hence, there there is no merit in the revision petition and the same is liable to be dismissed.

4. Heard the learned counsel for the petitioners, learned Additional Public Prosecutor appearing for the respondents 1 to 3 and the learned counsel appearing for the respondents 4 to 10.

5. A perusal of the impugned order dated 21.10.2022 shows that though there is a mentioning of the measurement of the water level as 75%, no evidence or material was recorded for the same. Further, in the report submitted by the second respondent to the first respondent dated 22.10.2022, it is stated that on 22.10.2022, when the water was released from the lake as per the impugned order, it entered into the fields of the Ayakattu farmers and caused a huge damage. Hence, the lake sluice cannot be opened continuously as the design of the irrigation channel is not suitable for the discharge of water which shows that the impugned order has been arbitrarily passed by the first respondent/Sub-Divisional



Crl.R.C.No.1448 of 2022

WEB COPY

Executive Magistrate. Therefore, the findings of the Magistrate is perverse and warrants interference.

6. Accordingly, the order passed by the first respondent in Na.Ka.No.1/2022/M1, dated 21.10.2022, is set aside. The matter is remitted back to the first respondent/ Sub-Divisional Executive Magistrate.

7. The first respondent/Sub-Division Executive Magistrate is directed to give sufficient opportunities to both the parties and pass a fresh order complying the provisions under Section 145 of CrI.P.C., in accordance with law and this exercise shall be completed within a period of two months from the date of receipt of a copy of this Corder.

8. With the above directions, this Criminal Revision Case is allowed.

18.11.2022

Index : Yes/No
Sni



Crl.R.C.No.1448 of 2022

P.VELMURUGAN, J.

Sni

To

- 1.The Sub-Divisional Executive Magistrate/
Revenue Divisional Officer,
Namakkal,
Namakkal District.
- 2.The Assistant Executive Engineer,
Public Works Department,
Water Recourses Organization,
(Sarabanga),
Rasipuram,
Namakkal District.
- 3.The Inspector of Police,
Rasipuram Police Station,
Namakkal District.

Crl.R.C.No.1448 of 2022

18.11.2022