



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CrI.O.P (MD) No.20912 of 2021

and

CrI.M.P. (MD) No.12032 of 2021

WEB COPY

1. Natarajan
 2. S. Peter
 3. I. Xavier
 4. R. Rangaraj
 5. M. Satheesh Kumar
 6. M.C. Raja
 7. M. Rajendran
 8. V. Balraj
 9. K. Ravichandran
 10. R. Karthik
 11. V. Praveen
- ... Petitioner
- Vs. -

1. The Sub Divisional Magistrate /
Revenue Divisional Officer,
Thanjavur, Thanjavur District.
 2. The Inspector of Police
Budalur Police Station,
Thanjavur District.
- ... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the entire records relating to the impugned proceedings dated 10.12.2021 in M.C.No.515 of 2021/A3 pending on the file of the first respondent and quash the same as illegal.

For Petitioner	: Mr.A.V.Raja
For Respondents	: Mr.M.Sakthi Kumar
	Government Advocate (CrI.side)

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.side) appearing for the respondents.



2. The petitioner challenges the issuance of notice by the executive magistrate for taking action under Section 107 of Cr.P.C.

3. I went through the contents of the enquiry notice. It only reads that the petitioner herein is impeding the enforcement of the court order in respect of a water body. The stand of the petitioner is that the land in question is a private patta land and not a water body. I do not want to enter into the factual controversy. Notice in question does not meet the requirements set out in Section 111 of Cr.P.C. The petitioner has not committed any act that may disturb public peace or tranquillity. Therefore, if according to the executive magistrate, the petitioner has committed encroachment on a water body, then, nothing stops the authority from taking appropriate action in accordance with law for removing the encroachment. Initiating proceedings under Section 107 of Cr.P.C. is not appropriate. The impugned notice is quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Sub Divisional Magistrate /
Revenue Divisional Officer,
Thanjavur, Thanjavur District.
2. The Inspector of Police
Budalur Police Station,
Thanjavur District.



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3. The Additional Public prosecutor,
Madurai Bench of Madras High Court,
Madurai

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