



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P. (MD) No.15703 of 2018

and

CrI.M.P. (MD) No.6952 of 2018

M.A.Senthil Kumar @ Vattikumar

... Petitioner

Vs.

1.The Executive Magistrate,
The Deputy Commissioner of Police (L&O),
Office of the Deputy Commissioner of Police (L&O),
Madurai City.

2.The Inspector of Police,
B6, Jaihindpuram Police Station (L&O),
Madurai City.

...Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the entire records connected to the proceedings in the impugned summon in Na.Ka.No.685/Ni.Se.Na&Ka.Thu.Aa/Ma.Maa/2018 dated 13.08.2018 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.I.Sabeer Mohamed

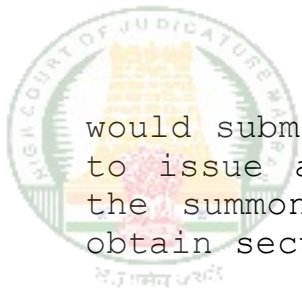
For Respondents: M/s.S.Bharathi

Government Advocate

ORDER

This Criminal Original Petition has been filed challenging the impugned summon in Na.Ka.No.685/Ni.Se.Na&Ka.Thu.Aa/Ma.Maa/2018 dated 13.08.2018 issued to the petitioner on the file of the first respondent and quash the same as illegal.

2.The learned counsel for the petitioner submitted that the first respondent has not satisfied himself with the fact that the petitioner is not a habitual offender. According to the petitioner, there is only one case pending against him and it is in the stage of trial. Therefore, the petitioner can never be called as a habitual offender. Therefore, the learned Counsel



would submit that even without satisfying this minimum requirement to issue a summon, the first respondent has mechanically issued the summon for the appearance of the petitioner purportedly to obtain security for good behavior under Section 110 Cr.P.C.,

3. The learned Government Advocate for the respondents would submit that only summon has been issued by the first respondent and the petitioner can always give his explanation before the first respondent and thereafter, the said explanation will be considered in accordance with law. The learned Government Advocate would further submit that the petitioner cannot straight away challenge the summon issued to him under Section 111 Cr.P.C., for initiating proceedings under Section 110 Cr.P.C.

4. It is seen from the records that the first respondent issued notice to the petitioner calling upon him to give his explanation as to why the orders should not be passed under Section 110 Cr.P.C., to obtain security for good behavior from the petitioner on the ground that the petitioner is a habitual offender. It is always open to the petitioner to appear before the concerned authority and give the explanation and also take the ground that he is not a habitual offender and give his explanation with regard to the same. The petitioner cannot straight away approach this Court, challenging the summon in view of the judgment of the Hon'ble Division Bench of this Court in the case of **M. Krishnamurthy and Others Vs. Sub Divisional Magistrate cum Revenue Divisional Officer, Krishnagiri and another** reported in **2017 (1) MLJ (Cr1) 257**.

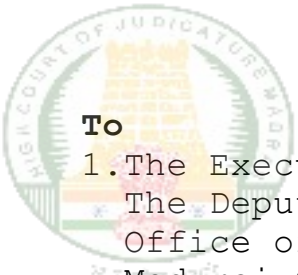
5. Hence, this criminal original petition is disposed of with a direction to the first respondent to issue fresh summon to the petitioner and fix a date for hearing. On that day, the petitioner shall appear before the first respondent and give his explanation. Based on the explanation given by the petitioner, it is left open to the first respondent to proceed further in accordance with law. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS-I)



To

1.The Executive Magistrate,
The Deputy Commissioner of Police (L&O),
Office of the Deputy Commissioner of Police (L&O),
Madurai City.

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2.The Inspector of Police,
B6, Jaihindpuram Police Station (L&O),
Madurai City.

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

+ 1 CC TO MR.I.SABEER MOHAMED, ADVOCATE IN SR NO.82782

MM

BU/SKN/SAR-I : 27.09.2018 : 3P/5C

Cr1.O.P.(MD) No.15703 of 2018
04.09.2018