



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.(MD)No.3823 of 2019

and

Crl.M.P.(MD)No.2243 and 2244 of 2019

- 1.Sardar
- 2.Abdul Rehman
- 3.Tajudeen
- 4.Jahangir
- 5.Syed Mohamed
- 6.L.Yakat Ali
- 7.Raja Mohamed
- 8.Amirdeen
- 9.Rajamohamed
- 10.Sikkandar

... Petitioners / A-Parties

/Vs./

- 1.The Executive Magistrate / Sub Divisional Magistrate,
Sub-Collector's Office,
Devakottai, Sivagangai District. ...1st respondent

- 2.The Inspector of Police,
Pallathur Police Station,
Sivagangai District. ...2nd respondent / Complainant

Prayer: Petition - filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the proceedings of the 1st respondent in Ku.Va.No.AA1/03 (2357) 2018 and quash the same as illegal.

For Petitioners	: Mr.S.Sukumar
For Respondents	: Mr.A.P.G.Ohm Chairma Prabhu Government Advocate

ORDER

The petitioner herein challenges the summons issued under Section 113 Cr.P.C.

2. The learned counsel appearing for the petitioner argues in two fold.

(a) that the Executive Magistrate has not issued any notice under Section 111 Cr.P.C., and following which, an inquiry under Section 116 Cr.P.C., which is statutory requirement has to be

completed within 6 months under Section 116 (6) Cr.P.C.

(b) that instructing the Executive Magistrate rushed to issue summons under Section 113 Cr.P.C.

3. The learned Government Advocate (Crl. Side) on instructions substantially concurred with the said statement of the learned counsel appearing for the petitioner.

4. Inasmuch as the Executive Magistrate has lost sight of the mandatory statutory provision for initiating action under Section 107 Cr.P.C., this Court necessarily has to quash the impugned summons issued under Section 113 Cr.P.C., and the same is quashed. Accordingly, this criminal original petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Executive Magistrate / Sub Divisional Magistrate,
Sub-Collector's Office,
Devakottai, Sivagangai District.

2.The Inspector of Police,
Pallathur Police Station,
Sivagangai District.

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

+1cc to Mr.S.Sukumar, Advocate, SR.No. 54240

Crl.O.P. (MD)No.3823 of 2019

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