



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD)No.14513 of 2019

and

Crl.M.P. (MD)Nos.8739 & 8740 of 2019

Murugan

... Petitioner / Counter Petitioner

Vs.

1.The Sub Divisional Executive Magistrate Cum
Sub Collector Office,
Tirunelveli,
Tirunelveli District

2.The Inspector of Police,
Chinnakovilankulam Police Station,
Cr.No.97/.2019, Tirunelveli District.

...Respondents/
Complainant

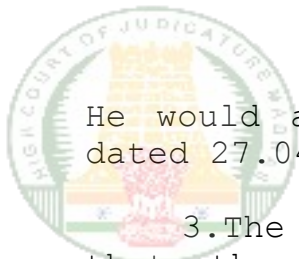
PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records A5/MC.112/2019 (110) on the file of the Sub-Divisional Executive Magistrate Cum Sub Collector, Tirunelveli, Tirunelveli District dated 25.09.2019 and quash the same.

For Petitioner : Mr.K.Prabhu
For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate (crl.side)

O R D E R

This petition has been filed challenging the summon issued under Section 111 Cr.P.C., thereby calling upon the petitioner in respect of the proceedings to be initiated under Section 107, 108, 109 and 110 Cr.P.C., for which executing the bond for a sum of Rs.10,000/- (Rupees Ten Thousand only).

2.The learned counsel for the petitioner submitted that the impugned order has been passed without stating any reason and without application of mind. The impugned notice is not having any ground for invoking such proceedings as against the petitioner. He further submitted that the credible function warranting initiation has not been mentioned in the impugned order and as such he prayed for quashment of impugned notice served under Section 111 Cr.P.C.



He would also relied upon the order in Crl.O.P.(MD)7049 of 2018, dated 27.04.2019.

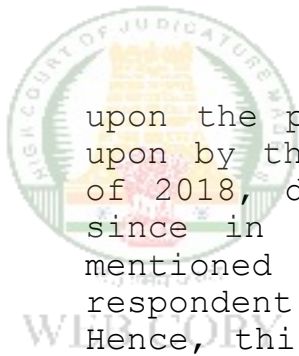
3.The learned Government Advocate (criminal side) submitted that the order passed under Section 111 Cr.P.C. to initiate proceedings under Sections 107, 108, 109 and 110 Cr.P.C. as against the petitioner. He further submitted that the petitioner is a habitual offender and he is having six previous cases. Therefore, to initiate the proceedings under Sections 107 to 110 Cr.P.C., the matter has been referred before the jurisdictional Magistrate, Tirunelveli. On receipt of the same, the first respondent passed an order under Section 111 Cr.P.C. He further submitted that in the said order, categorically mentioned the substance of information received from the second respondent and after setting forth such an information, he passed the order, thereby call upon the petitioner to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) on 30.09.2019.

4.Heard both sides.

5.The petition has been filed as against the impugned order passed by the first respondent under Section 111 Cr.P.C., thereby, calling upon the petitioner to appear before the first respondent on 30.09.2019 to execute the bond for a sum of Rs.10,000/- (Rupees Ten Thousand only). It is also seen that the petitioner is a habitual offender and he is having six previous cases. Initially proceedings under Sections 107 to 110 Cr.P.C, the first respondent also issued show cause notice under Section 111 Cr.P.C, stating that the reasons for passing such an order. It is relevant to extract the provision of Section 111 Cr.P.C.

"111.Order to be made : When a Magistrate acting under section 107, section 108, section 109 or section 110, deems it necessary to require any person to show cause under such section he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required"

6.The provision is more clear that when the executing Commissioner anything under Sections 107 to 110 Cr.P.C, it is necessary to require any person to show cause, he can pass order in writing setting forth the substance of the information received. Accordingly, the first respondent, on receipt of the information from the second respondent, he passed an order under Section 111 Cr.P.C. calling upon the petitioner after setting forth such an information and mentioned the amount of bond to be executed and directed him to appear on 30.09.2019. This Court finds no infirmity or irregularity in the order passed by the first respondent calling



upon the petitioner to appear on 30.09.2019. The judgment relied upon by the learned counsel for the petitioner in Crl.O.P.(MD)7049 of 2018, dated 27.04.2019, is not applicable to the case on hand, since in the order impugned, the first respondent categorically mentioned the substance of information received from the second respondent. Therefore, this Court finds no merit in this petition. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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TO

- 1.The Sub Divisional Executive Magistrate Cum
Sub Collector Office, Tirunelveli,
Tirunelveli District.
- 2.The Inspector of Police,
Chinnakovilankulam Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.K.PRABHU, Advocate Sr. No. 91983

Crl.O.P. (MD)No.14513 of 2019
15.10.2019

MR(CO)

TR(04.11.2019) 3P 5C