

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.OP.Nos.1379 and 1381 of 2020
and
Crl.MP.Nos.835 and 836 of 2020

Aarif AliPetitioner in both Crl.OPs

Vs.

1.State Rep. By
The Tasildhar,
Wallajah Taluk Office,
Ranipet District.

2.The Inspector of Police,
Arcot Town Police Station,
Ranipet District.

..Respondents in both Crl.OPs

PRAYER in Crl.OP.No.1379 of 2020: Criminal Original Petition filed under Section 482 Cr.P.C, to set aside the order of the Sub Divisional Magistrate cum Sub Collector Court, Ranipet vide CRPC Case No.124 of 2019 dated 30.12.2019 issued under Section 113 of Cr.P.C.

PRAYER in Crl.OP.No.1381 of 2020: Criminal Original Petition filed under Section 482 Cr.P.C, to set aside the order of the Sub Divisional Magistrate cum Sub Collector Court, Ranipet vide CRPC Case No.124 of 2019 dated 30.12.2019 issued under Section 111 of Cr.P.C.

For Petitioner : Mr.T.Muruganantham
(in both Crl.OPs.)

For Respondents : Mr.M.Mohamed Riyaz
(in both Crl.OPs.) Additional Public Prosecutor

COMMON ORDER

Crl.OP.No.1381 of 2020 has been filed to set aside the order passed by the Sub Divisional Magistrate cum Sub Collector, Ranipet wide CRPC - 124/19 dated 30.12.2019 issued under section 111 of Cr.P.C.

2. Crl.OP.No.1379 of 2020 has been filed to set aside the order of the Sub Divisional Magistrate cum Sub Collector, Ranipet wide CRPC - 124/19 dated 30.12.2019 issued under Section 113 of Cr.P.C.

3. The Sub Divisional Magistrate cum Sub Collector, Ranipet has received an information on 28.12.2019 from the Tasildhar, Wallajah (1st respondent) that the petitioner herein is indulging in illegal sand mining and the said act is likely to breach of peace and hence, it is required to show cause why the petitioner should not be ordered to execute a bond with sureties for keeping the peace. After perusing the said information, the Sub Divisional Magistrate cum Sub Collector has conducted preliminary enquiry and satisfied that there is likelihood of breach of peace and hence he passed an order on 30.12.2019 under section 111 of Cr.P.C to show cause, why the petitioner should not be ordered to execute a bond with two sureties of Government servants not below the rank of Group B officer for a sum of Rs.10,000/- each. He also issued summons under Section 113 of Cr.P.C to the petitioner along with a copy of the order passed under Section 111 of Cr.P.C. directing him to appear before him on 06.01.2020 at 11.00 a.m.

4. After receipt of the said order passed under Section 111 of Cr.P.C and also the summons issued under Section 113 of Cr.P.C, the petitioner has filed the present petitions to quash the same.

5. The learned counsel for the petitioner has submitted that before passing order under section 111 of Cr.P.C and issuing summons under section 113 of Cr.P.C, the Sub Divisional Magistrate cum Sub Collector should subjectively satisfy himself that there is likelihood of breach of peace. He further submitted that in this case, the Sub Divisional Magistrate cum Sub Collector has passed an order under section 111 of Cr.P.C, without stating any valid reason for passing such order and therefore he prayed to quash the said order and also the summons issued under section 113 of Cr.P.C.

6. Per contra, the learned Additional Public Prosecutor who is appearing for the respondent has submitted that the petitioner has challenged the order passed under section 111 of Cr.P.C and summons issued under section 113 of Cr.P.C by the Sub

Divisional Magistrate cum Sub Collector, Ranipet, but the said Sub Divisional Magistrate cum Sub Collector has not been added as respondent. He further submitted that the impugned order passed by the Sub Divisional Magistrate cum Sub Collector, is only in the nature of show cause notice and the same cannot be challenged. As per the said order, the petitioner was directed to show cause as to why he should not execute a bond for keeping peace for a period of one year. If the petitioner gives a satisfactory explanation, the Sub Divisional Magistrate cum Sub Collector will not pass any order directing the petitioner to execute a bond for keeping peace. If the Sub Divisional Magistrate cum Sub Collector is not satisfied with the explanation submitted by the petitioner, he will pass an order directing the petitioner to execute a bond for keeping peace and only thereafter, the petitioner may challenge the said order by filing appeal as provided under Section 373 of Cr.P.C. Since, so far no final order has been passed, the petitioner cannot file petitions to quash the show cause notice which was issued under section 111 of Cr.P.C. and summons issued under section 113 of Cr.P.C.

7. For the aforesaid reasons, this court is of the view that the petitioner has not made out a case for allowing these petitions. Hence, these petitions are dismissed. Connected MP Closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

drl

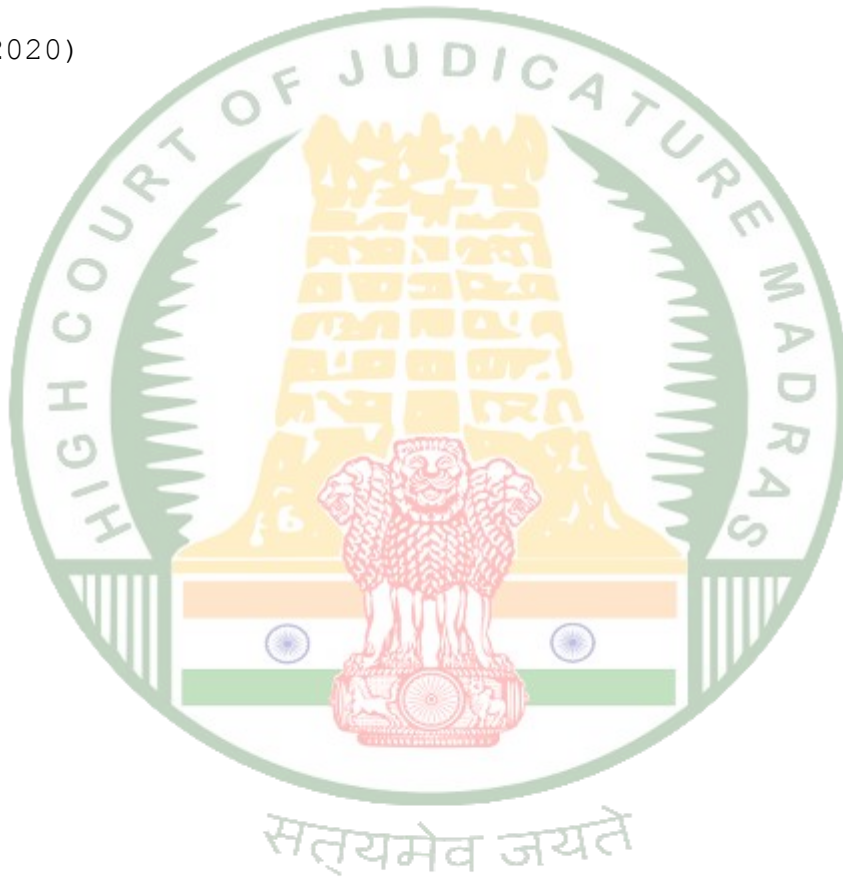
To

- 1.The Sub Divisional Magistrate cum Sub Collector,
Ranipet.
- 2.The Inspector of Police,
Arcot Town Police Station,
Ranipet District.
- 3.The Tahsildar,
Wallajah Taluk Office,
Ranipet District.

4.The Public Prosecutor,
High Court,
Chennai.

CrI.OP.Nos.1379 and 1381 of 2020
and
CrI.MP.Nos.835 & 836 of 2020

SSV(CO)
RN(22/05/2020)



WEB COPY