

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.15395 of 2020

and

Cr1.M.P.Nos.5859 & 5860 of 2020

E.Jagadeesh Babu
S/o.Narasimma Naidu

...Petitioner

Vs.

1. The Revenue Divisional Officer
Thirutani,
Thiruvallur District.

2. The State rep. By
The Sub-Inspector of Police,
D-6, Pothatturpet Police Station,
Thirutani Sub Division,
Thiruvallur District.

...Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to quash the impugned Police Muchalika notice dated 06.09.2020 in S.No.28/2020 issued by the 2nd respondent.

For Petitioner : Mr.P.Krishnan
For Respondents : Mr.S.Karthikeyan,
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the impugned Police Muchalika notice dated 06.09.2020, thereby, directed the petitioner to appear before the first respondent on 16.09.2020.

2.The learned counsel for the petitioner would submit that the second respondent is being the police authority has no power to issue any notice under Section 110 of Cr.P.C.,. The 1st respondent alone has power to initiate proceedings under Section 110 of Cr.P.C., as against the accused person. It is seen from the impugned notice that the proceedings have been registered on 14.09.2020, in S.No 28 of 2020 on the file of the second respondent. When it being so, the second respondent

issued summon to the petitioner on 06.09.2020 and thereby directed the petitioner to appear before the first respondent on 16.09.2020. Therefore, the entire proceedings is vitiated. And only to foist the false case against the petitioner, the impugned Muchalika was issued.

3. The learned Additional Public Prosecutor submitted that though second respondent has no power to initiate proceeding under Section 110 of Cr.P.C., the petitioner involved in crimes and the same was registered in S.No.28 of 2020 on 14.09.2020. However, the proceedings are pending with the file of the first respondent as against the petitioner herein.

4. Heard Mr.P.Krishnan, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent.

5. In the impugned police Muchalika notice dated 06.09.2020, the second respondent stated that for the occurrence took place on 14.09.2020, registered in S.No.28 of 2020, and proceedings under Section 110 of Cr.P.C., and thereby directed the petitioner to appear before the first respondent on 16.09.2020. In respect of the impugned notice dated 10.09.2020, issued by the second respondent for the occurrence took place dated 10.09.2020 registered in S.No.30 of 2020 and initiated proceedings under Section 110 of Cr.P.C., the petitioner was called upon to appear before the first respondent on 14.09.2020. For the occurrence took place on 14.09.2020, the second respondent registered the proceedings in S.No.28 of 2020, whereas for the occurrence took place on 10.09.2020, the proceedings registered in S.No.30 of 2020. Further, both the alleged occurrence took place on 14.09.2020 and 10.09.2020, but the Impugned notice was issued before that viz., on 06.09.2020. Therefore, it shows the non application of mind by the second respondent. Further, the second respondent has no power to issue any notice for initiation of proceedings under Section 110 of Cr.P.C. The Executive Magistrate namely the first respondent alone has power to issue notice for initiation of proceedings under Section 110 of Cr.P.C., Therefore, the impugned notices are nothing but abuse of process of law and cannot be sustained as against the petitioner.

6. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

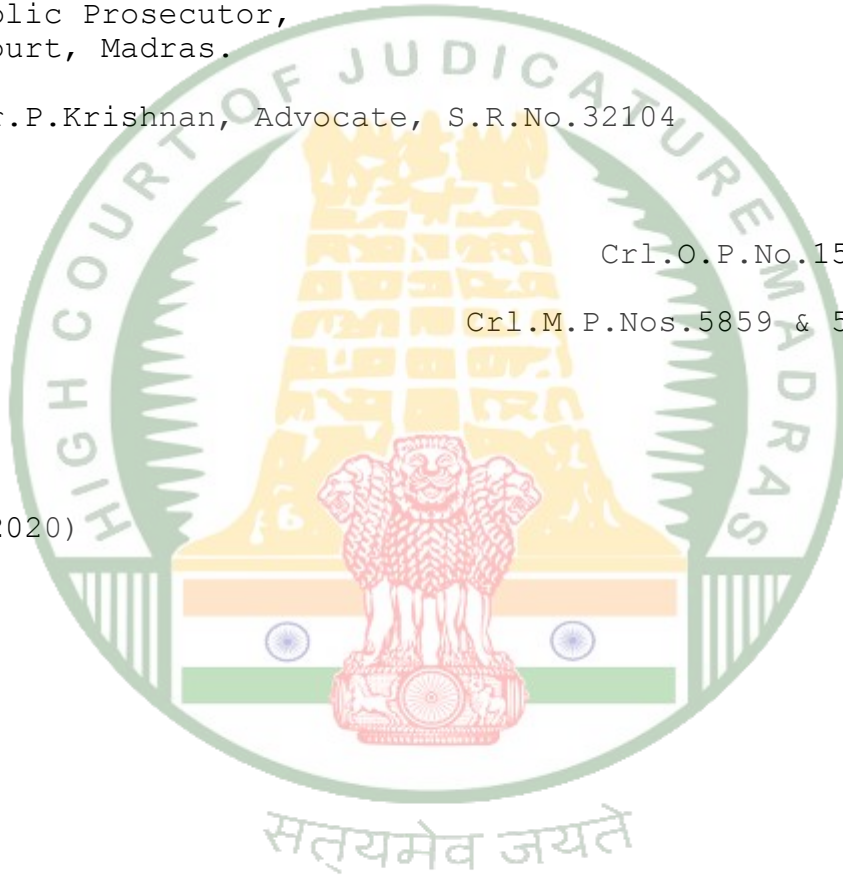
To

1. The Revenue Divisional Officer
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Thiruvallur District.
2. The State rep. By
The Sub-Inspector of Police,
D-6, Pothatturpet Police Station,
Thirutani Sub Division,
Thiruvallur District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Krishnan, Advocate, S.R.No.32104

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AJS (CO)
RV (09/11/2020)



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