



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P. (MD).No.173 of 2020

and

Crl.MP (MD) Nos.45 & 46 of 2020

- 1.A.Abdul Rahman
- 2.K.Musthafa
- 3.A.Anthony
- 4.M.AbdulRahman
- 5.Valarmathi
- 6.V.Manickam
- 7.Thottichi
- 8.Y.Abbas
- 9.S.Shanmugam
- 10.S.ChinnaduraiSamayan
- 11.A.JainulAbudeen
- 12.M.Syed oli
- 13.S.Prem @ Ambedkar

..Petitioners/' A' Parties
Vs.

- 1.The Executive Magistrate Cum
Deputy Commissioner of Police (Law and Order),
Madurai City, Madurai.

(Amended as per order dated 08.01.2020, made in
Crl.M.P.No.133 of 2020 by ADJCJ)

- 2.The Inspector of Police,
E3, Anna Nagar Police Station (Law and Order),
K.K.Nagar, Madurai District,
Madurai.
- .. Respondents/Complainants

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned show cause notice in Na.Ka.No.1443/Ne.Se.Na & Ka.Dhu.AA/Ma.Maa/2019 dated 23.12.2019 on the file of the respondent No.1 and quash the same as illegal as against the petitioners alone.

For Petitioners : Mr.T.Lajapathi Roy
For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to quash the
impugned show cause notice in Na.Ka.No.1443/Ne.Se.Na &
<https://hcservices.ecourts.gov.in/hcservices/>



Ka.Dhu.AA/Ma.Maa/2019 dated 23.12.2019 on the file of the first respondent as against the petitioners alone.

2.The learned counsel for the petitioners would submit that though the order is in the form of show cause notice it is bereft of details and not issued in accordance with law. The order does not disclose the substance of the information received, the amount of bond to be executed and the term for which it is to be in force. In support of his contention, he relied upon the decision of the Hon'ble Division Bench of Madras High Court in the case of **M.Krishnamurthy Vs Sub Divisional Magistrate-Cum- Revenue Divisional Officer** reported in **2017 1 MadWN (Cri) 199** wherein, it is held as follows:-

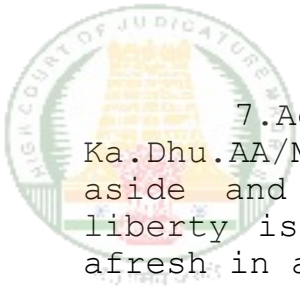
"In our view, a show cause order under Section 107 r/w 111 can be subjected to judicial review under Section 482 Cr.P.C or Article 226 of the Constitution of India, if on the face of it, the order does not satisfy the minimum requirements of Section 111 or that the same has been passed by a person who is not an Executive Magistrate and not otherwise. In other words, if the order does not contain 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, only then, can the High Court interfere and not otherwise. Factual adjudication of the satisfaction expressed by Magistrate is ruled out in view of the decision of the Supreme Court in Vicco Laboratories (supra)."

3.The learned counsel would further submit by this impugned order the respondents are attempting to dislocate the petitioners. Though factual adjudication of the satisfaction expressed by the Magistrate cannot be done, the impugned order does not contain the relevant materials and thereby it has to be quashed.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondents would submit that the petitioners appeared along with their respective counsel and they filed their vakalat and they have to appear before the respondent on 27.12.2019. Whereas, they have not appeared before the respondent.

5.Heard both sides.

6.A perusal of the order shows that it does not disclose 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 and in such case, this Court can interfere with the impugned order.



7. Accordingly, the impugned order in Na.Ka.No.1443/Ne.Se.Na & Ka.Dhu.AA/Ma.Maa/2019 passed by the first respondent is hereby set aside and this Criminal Original Petition is allowed. However, liberty is given to the second respondent to initiate proceedings afresh in accordance with law.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dss

To

- 1.The Executive Magistrate Cum
Deputy Commissioner of Police)Law and Order),
Madurai City, Madurai.
- 2.The Inspector of Poolice,
E3, Anna Nagar Police Station (Law and Order),
K.K.Nagar, Madurai District,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SMA/11/03/2020/3P/4C