



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2020

CORAM:

THE HONOURABLE **MR. JUSTICE R.PONGIAPPAN**

Crl.O.P.(MD)No.8096 of 2020

and

Crl.MP(MD)Nos.3849 & 3850 of 2020

Ramesh

... Petitioner

Vs.

1.The Executive Magistrate/Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

2.The Inspector of Police,
Keelathuval Police Station,
Ramanathapuram District.

... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to the impugned proceedings of the first respondent in M.C.No.30 of 2020, dated 15.07.2020 and quash the same as illegal.

For Petitioner : Mr.S.Bharathi

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to quash the impugned proceedings of the first respondent in M.C.No.30 of 2020, dated 15.07.2020.

2.The learned counsel for the petitioner 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 first respondent is attempting to dislocate the petitioner. 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 petitioner appeared along with his counsel and he filed his vakalat and he has to appear before the first respondent on 20.07.2020. Whereas, he has not appeared before the first respondent.

5.Heard the learned counsel on either side and perused the materials available on record.

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 M.C.No.30 of 2020, dated 15.07.2020 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. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



gns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Executive Magistrate/Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.
- 2.The Inspector of Police,
Keelathuval Police Station, Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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04.08.2020

VB (21.08.2020) 3P 4C