



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.09.2020**

CORAM:

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

CrI.O.P.[MD]No.9740 of 2020

WEB COPY

Muthal @ Muthukumar

... Petitioner

Vs.

The Sub Divisional Magistrate/
Revenue Divisional Officer,
Pudukkottai District,
Pudukkottai.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned summon issued by the respondent herein vide Form-14 under Section 113 of Cr.P.C dated 18.08.2020 and quash the same.

For Petitioner : Mr.B.Karuppasamy

For Respondent : Mr.R.Erottuchamy
Government Advocate (crl.side)

O R D E R

This Criminal Original Petition has been filed seeking the relief to call for the records pertaining to the impugned summon issued by the respondent herein vide Form-14 under Section 113 of Cr.P.C dated 18.08.2020 and quash the same.

2.Heard both sides.

3. The impugned notice issued by the respondent, under Section 113 Cr.P.C., without following the procedure contemplated under Section 107 (1) Cr.P.C. Accordingly, the respondent ought to have issued and passed an order under Section 111 Cr.P.C. and thereafter, he passed an order under Section 113 Cr.P.C. Admittedly the respondent, without passing any order under Section 111 Cr.P.C., directly issued summon under Section 113 Cr.P.C. It is relevant to extract the provision under Sections 111 and 113 Cr.P.C., as follows:

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

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113. Summons or warrant in case of person not so present: If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the Commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest

4. When a person received notice under Section 111 Cr.P.C. and thereafter, he failed to appear before the Authority, the Authority can issue summon under Section 113 Cr.P.C.

5. On perusal of records, no order has been passed under Section 111 Cr.P.C. by the respondent. Therefore, the impugned summon cannot be sustained as against the petitioner. Accordingly, this Criminal Original Petition is allowed and the impugned notice dated 18.08.2020, on the file of the respondent, is hereby quashed. However, the respondent is at liberty to proceed with a fresh enquiry following the procedure contemplated the provision under Section 111 Cr.P.C, against the petitioner, in accordance with law.

Sd/-

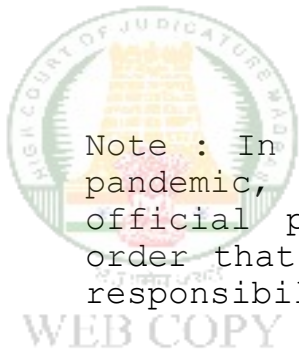
Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Sub Divisional Magistrate/
Revenue Divisional Officer,
Pudukkottai District,
Pudukkottai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.[MD]No.9740 of 2020
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AVS (CO)
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