



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P (MD)No.12733 of 2020

and

Crl.M.P. (MD)Nos.5792 and 5793 of 2020

Yogesh

... Petitioner

Vs

1.The First Class Executive Magistrate cum
Revenue Divisional Officer/Sub Collector,
Ramanathapuram, Ramanathapuram District.

2.The Inspector of Police,
Remeshwaram Temple Police Station,
Remeshwaram,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records relating to the impugned summon in m4/4766/2020, dated 18.09.2020 issued by the first respondent and quash the same as illegal.

For Petitioner : Mr.T.Veerakumar

For Respondents : Ms.S.E.Veronica Vincent,
Government Advocate (Criminal Side)

O R D E R

Heard the learned counsel on either side.

2.The petitioner challenges the impugned summon issued by the first respondent calling upon the petitioner to attend enquiry in terms of Section 107 and 113 of Cr.P.C.

3.The learned Government Advocate (Crl.side) points out that to ensure maintenance of public tranquility, the impugned summon has been issued. The learned Government Advocate (Crl.side) further contended that what is under challenge is only a notice calling upon the petitioner to attend enquiry. This by itself does not infringe any of the rights of the petitioner herein and would pray to dismiss this petition as premature.



4.I am unable to sustain the objections of the learned Government Advocate (Crl.side). As rightly pointed out by the learned counsel appearing for the petitioner, to summon a person to attend enquiry in terms of Section 107 and 113 of Cr.P.C., the executive Magistrate must record satisfaction that there is a sufficient ground for proceeding. In the case on hand, the satisfaction of the first respondent has nowhere been recorded. Merely because, the second respondent had laid information in this regard, the first respondent cannot mechanically summon the petitioner. The petitioner's counsel would also place reliance on the decision reported in 1997 (3)Crimes 107. The said decision is squarely applicable to the case on hand. In as much as, the condition precedent for issuing summon in term of Sections 107 and 113 of Cr.P.C., is absent, the summon impugned in this petition is quashed. The Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// 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 First Class Executive Magistrate cum
Revenue Divisional Officer/Sub Collector,
Ramanathapuram, Ramanathapuram District.
- 2.The Inspector of Police,
Remeshwaram Temple Police Station,
Remeshwaram, Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P(MD)No.12733 of 2020
and Crl.M.P.(MD)Nos.5792 and 5793 of 2020
10.11.2020

SSS(CO)

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