



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2020

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

Crl.O.P (MD)No.12622 of 2020

and

Crl.M.P (MD)Nos.5729 and 5730 of 2020

WEB COPY

Vijayapandiyan

... Petitioner/Accused

vs.

1)The Regional Executive Magistrate cum  
Revenue Divisional Officer,  
Sankarankoil,  
Tenkasi District.

2)The Inspector of Police,  
Puliyankudi Police Station,  
Tenkasi District.

... Respondents/Respondents

**PRAYER:** Petition filed under Section 482 Code of Criminal Procedure, to call for the records relating to the summon in A3/M.C.08/2020 (110) passed by the 1<sup>st</sup> respondent dated 05.10.2020 and quash the same.

For Petitioner : Mr.V.Kathirvelu for  
Mr.K.Prabhu

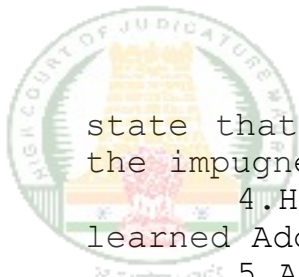
For Respondents : Ms.S.E.Veronica Vincent  
Government Advocate (Crl.Side)

**ORDER**

The present petition has been filed to call for the records relating to the summon in A3/M.C.08/2020(110) issued by the 1<sup>st</sup> respondent dated 05.10.2020 under Section 113 of Cr.P.C., and quash the same.

2.The learned counsel for the petitioner would state that the petitioner was issued with the impugned summon under Section 113 Cr.P.C directing him to appear before the 1<sup>st</sup> respondent on 08.10.2020 at 9.00 a.m. He would further state that if the proceedings under Section 110 Cr.P.C is initiated, a show cause notice under Section 111 Cr.P.C should be issued by the Executive Magistrate after satisfying himself that there are sufficient grounds to proceed further under Section 110 Cr.P.C. Upon receipt of the show cause notice, if the accused failed to appear before the Executive Magistrate, he can issue summon under Section 113 Cr.P.C. In the present case, without even issuing any show cause notice under Section 111 Cr.P.C., the 1<sup>st</sup> respondent has directly proceeded to issue the impugned summon under Section 113. Cr.P.C. directing the petitioner to appear for enquiry. Hence, this petition.

3.The learned Government Advocate (Crl.Side) would fairly



state that Section 111 Cr.P.C was not complied with before issuing the impugned summon under Section 113. Cr.P.C.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor.

5.Admittedly, the mandatory provision of issuing notice under Section 111 Cr.P.C, has not been complied with and therefore, I am inclined to quash the impugned summon.

6.Accordingly, the impugned summon in A3/M.C.08/2020(110) issued by the 1<sup>st</sup> respondent dated 05.10.2020 under Section 113 of Cr.P.C., is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P & A)

// 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.

To

1)The Regional Executive Magistrate cum  
Revenue Divisional Officer,  
Sankarankoil, Tenkasi District.

2)The Inspector of Police,  
Puliyankudi Police Station,  
Tenkasi District.

3)The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

ORDER MADE IN  
Crl.O.P(MD)No.12622 of 2020  
DATED : 23.11.2020

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MR (CO)

KK(14.12.2020) 2P 4C