



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

WEB COPY

Crl.O.P.(MD)No.1171 of 2021

and

Crl.M.P(MD)No.562 of 2021

Haranivasan @ Aranivasan

... Petitioner

Vs.

1.The Administrative Executive Magistrate
cum Deputy Commissioner of Police, (Law and Order),
Trichy City.

2.The Inspector of Police,
Srirangam Police Station,
Trichy City.
(in LIR No.109 of 2020)

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Na.Ka.No.33/Ni.se.Na and Ka.Thu.A/Thi.Ma, dated 07.01.2021 on the file of the first respondent and quash the same as illegal.

For Petitioners : Mr.M.Seenisulthan

For Respondents : Mr.A.Robinson
Government Advocate (Criminal Side)

ORDER

The present petition is filed seeking to call for the proceedings of the first respondent in Na.Ka.No.33/Ni.se.Na and Ka.Thu.A/Thi.Ma, dated 07.01.2021 and quash the same.

2.Mr.M.Seenisulthan, learned counsel appearing for the petitioner submits that the first respondent, without following the due procedures contemplated under Sections 107 and 111 of the Code of Criminal Procedure, passed an impugned order on 07.01.2021. His further contention is that no show cause notice was issued to him as contemplated under Section 107 of the Code of Criminal Procedure.

3.The learned counsel for the petitioner relied on the decision of the Hon'ble Division Bench of this Court in **M.Krishnamurthy Vs. The Sub Divisional Magistrate Cum Revenue Divisional Officer, Krishnagiri and another**, reported in 2017 (1) CTC 680, which reads that,

<https://hcservices.ecourts.gov.in/hcservices/>



WEB COPY

"23. 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 the Magistrate is ruled out in view of the decision of the Supreme Court in Vicco Laboratories."

4. Mr.A.Robinson, learned Government Advocate (Criminal side), who accepts notice on behalf of the respondents, fairly conceded that the summons issued to the accused persons by the Administrative Executive Magistrate-cum-Deputy Commissioner of Police (Law and Order) is not inconsonance with the provisions laid down under Section 107 of the Code of Criminal Procedure and therefore, the same is liable to be set aside.

5.Considering the said submissions made on either side, the impugned order passed by the Administrative Executive Magistrate-cum-Deputy Commissioner of Police (Law and Order) in Na.Ka.No.33/Ni.se.Na and Ka.Thu.A/Thi.Ma, dated 07.01.2021, is set aside.

6.Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

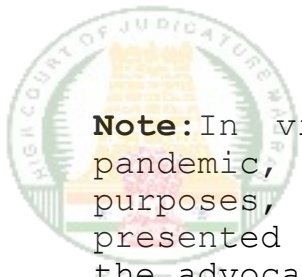
Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj i



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.

WEB COPY

To

- 1.The Administrative Executive Magistrate
cum Deputy Commissioner of Police, (Law and Order),
Trichy City.
- 2.The Inspector of Police,
Srirangam Police Station,
Trichy City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.1171 of 2021
29.01.2021

PR (CO)
KK (23.02.2021) 3P 4C