



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2021

CORAM :

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CrI.OP.(MD)No.1651 of 2021 &

CrI.MP(MD)No.796 of 2021

WEB COPY

1.Subramanian

2.Shanmuga Sundharam

... Petitioners

vs.

1.The Sub Divisional Magistrate/Sub Collector,
Cheranmahadevi, Tirunelveli District.

2.The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in CRPC Case No.277 of 2020, dated 31.12.2020 passed by the first respondent and quash the same as illegal.

For Petitioners

: Mr.S.R.Durai Raj

For Respondents

: Mr.A.Robinson

Government Advocate (Criminal side)

ORDER

The present petition is filed seeking to quash the proceedings of the Sub Collector, Cheranmahadevi, Tirunelveli District Cr.P.C in case No.277 of 2020.

2.Mr.S.R.Durai Raj, 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 order on 31.12.2020.

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,

"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 by the Sub Collector, Cheranmahadevi, Tirunelveli District 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 Sub Collector, Cheranmahadevi, Tirunelveli District in CRPC Case No.277 of 2020, dated 31.12.2020, is set aside.

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

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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/Sub Collector,
Cheranmahadevi, Tirunelveli District.

2.The Inspector of Police,
Thisayanvilai Police Station,Tirunelveli District.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-3692[F] dated 08/02/2021
CrI.OP.(MD)No.1651 of 2021 &
CrI.MP(MD)No.796 of 2021

TP(CO)

https://hccs.courts.gov.in/cases/2P_4C