



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2021

CORAM :

THE HONOURABLE **Mrs.JUSTICE R.HEMALATHA**

CrI.O.P.(MD)No.2271 of 2021

and

CrI.M.P.(MD)No.1146 of 2021

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M.Varatharajan

...Petitioner

/Vs./

1.The Executive Magistrate Cum

The Deputy Commissioner of Police,

Law and Order,

Thirunelveli City, Thirunelveli - 11.

2.The Inspector of Police,

Junction Police Station,

Tirunelveli,

Tirunelveli District - 627 001.

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in EMC No.310 of 2020, dated 24.12.2020 on the file of the first respondent and quash the same as illegal as against the petitioner.

For Petitioner

: Mr.R.M.Suresh

For Respondents

: Mr.A.Robinson

Government Advocate

(Criminal Side)

ORDER

The present petition is filed to quash the show cause notice in EMC No.310 of 2020 issued by the first respondent under Section 113 of Code of Criminal Procedure.

2. Heard Mr.R.M.Suresh, learned counsel for the petitioner and Mr.A.Robinson, learned Government Advocate (Criminal Side) for the respondents.

3. The learned counsel for the petitioner contended that though as per the provisions of 113 of the Code of Criminal Procedure, notice should contain substance of grounds, based on which, action is initiated by the Executive Magistrate, no such substance of grounds is indicated in the notice issued under Section 113 of the Code of Criminal Procedure. He also relied on the decision of the 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, in which, it has been held thus:

"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 (supra)*."

4. A perusal of the show cause notice issued under Section 113 of Code of Criminal Procedure shows that it does not disclose the substance of grounds for initiation of proceedings against the petitioner. Hence, the show cause notice under Section 113 Cr.P.C., dated 24.12.2020 on the file of the first respondent is quashed and the present petition stands allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

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 Executive Magistrate Cum
The Deputy Commissioner of Police,
Law and Order,
Thirunelveli City, Thirunelveli - 11.
- 2.The Inspector of Police,
Junction Police Station,
Tirunelveli, Tirunelveli District - 627 001.



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

Crl.O.P. (MD) No.2271 of 2021
15.02.2021

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