



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2021

CORAM:

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

Crl.O.P. (MD)No.2513 of 2021

and

Crl.M.P. (MD)No.1321 and 1322 of 2021

WEB COPY

- 1.Arumugasamy
- 2.Paramasivan
- 3.Petchimuthu @ Prabhu
- 4.Sudalai
- 5.Mahendran
- 6.Gomathisankar
- 7.Thangaraj
- 8.Manoj

...Petitioners

/Vs./

- 1.The Executive Magistrate cum
Revenue Divisional Officer,
Tenkasi Division,
Tenkasi District.

- 2.The Inspector of Police,
Surandai Police Station,
Tenkasi District.
(Crime No.293 of 2020)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records, in the proceedings Na.Ka.A2/M.C.P./CRPC107/07/2020 dated 12.08.2020 on the file of the first respondent and quash the same.

For Petitioners : Mr.R.J.Karthick

For Respondents : Mr.A.Robinson

Government Advocate (Criminal Side)

ORDER

This present petition is filed to quash the proceedings in Na.Ka.A2/M.C.P./CRPC107/07/2020 dated 12.08.2020 on the file of the first respondent.

2. Heard Mr.R.J.Karthick, learned counsel for the petitioners and Mr.A.Robinson, learned Government Advocate (Criminal Side) for the respondents.

3. The primordial contention of the petitioners is that the first respondent did not follow the procedures laid down under Sections 107 to 111 of the Code of Criminal Procedure and that show cause notice does not contain the particulars required to be set out under Section 111 of the Code of Criminal Procedure. His further contention is that substance of the information is not at all



mentioned in the said notice.

4. Mr.R.J.Karthick , learned counsel appearing for the petitioners 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**, 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)."

5. Mr.A.Robinson, learned Government Advocate (Criminal side), who accepts notice on behalf of the respondents, fairly conceded that the show cause notice issued to the accused persons by the Executive Magistrate is not in inconsonance with the provisions laid down under Section 111 of Criminal Procedure Code and therefore, the same is liable to be set aside.

6. Considering the submissions made on either side, the impugned proceedings in Na.Ka.A2/M.C.P./CRPC107/07/2020 dated 12.08.2020 by the Executive Magistrate cum Revenue Divisional Officer, Tenkasi, is hereby set aside.

7. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



WEB COPY

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
Revenue Divisional Officer,
Tenkasi Division,
Tenkasi District.
- 2.The Inspector of Police,
Surandai Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.R.J.KARTHICK, Advocate (SR-6025[F] dated 18/02/2021)

Crl.O.P. (MD)No.2513 of 2021

17.02.2021

(KUN)
KV(26.02.2021) 3P 5C