



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2021

CORAM :

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CrI.OP.(MD)No.4757 of 2021 &
CrI.MP(MD)No.2697 of 2021

Panjaaram

... Petitioners

vs.

1. The Executive Magistrate,
Paramakudi,
Ramanathapuram District.
2. The Inspector of Police,
Sathirakudi Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in MC.No.229 of 2020, dated 07.10.2020 on the file of the first respondent and quash the same.

For Petitioner : Mr.M.Iniyavan

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

ORDER

The present petition is filed seeking to quash the proceedings of the first respondent in MC.No.229 of 2020, dated 07.10.2020.

2.Mr.M.Iniyavan, learned counsel appearing for the petitioner submits that the first respondent, without following due procedures contemplated under Sections 107 and 111 of the Code of Criminal Procedure, passed an order on 07.10.2020.

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 persons by the Executive Magistrate, Paramakudi, Ramanathapuram 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 Executive Magistrate, Paramakudi, Ramanathapuram District in MC.No.229 of 2020, dated 07.10.2020, is set aside.

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

Sd/-

Assistant Registrar (T&P)

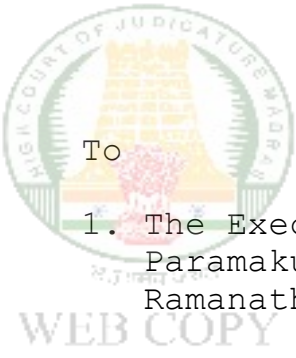
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Sub Assistant Registrar(CS)

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.

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



To

1. The Executive Magistrate,
Paramakudi,
Ramanathapuram District.
2. The Inspector of Police,
Sathirakudi Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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