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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CrI.O.P (MD)No.17630 of 2021

and

CrI.M.P. (MD)No.9594 of 2021

Thirumalai

... Petitioner

Vs

1.The Sub Divisional Magistrate cum
Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

2.The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
(LIR No.01/21)

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to impugned order passed by the first respondent under Section 111 of Cr.P.C., dated 04.10.2021 and quash the same.

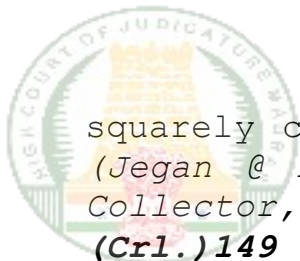
For Petitioner : Mr.S.Ramasamy
For R1 & R2 : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

Heard the learned counsel on either side.

2. What is under challenge in this petition is notice issued under Section 111 of Cr.P.C. by the first respondent.

3. I went through the contents of the impugned notice. Section 111 of Cr.P.C., states that where the executive magistrate deems it necessary to require any person to show cause under Section 110 of Cr.P.C., he shall make an order in writing after setting forth the substance of the information received by him. Few other requirements are also set out in Section 111 of Cr.P.C. In this case, the subjective satisfaction of the executive magistrate has not been set out in the impugned notice. The substance of the information has also not been set out. Therefore, on these twin grounds, the impugned notice is liable to be quashed. In fact, this issue is no longer *res integra*. It is



squarely covered by the decision reported in **2016-2-L.W. (Cr1.) 470** (Jegan @ Billa Jegan Vs. The Sub Divisional Magistrate and Sub Collector, Thoothukudi, Thoothukudi District) and **2017-1-L.W. (Cr1.) 149** (M.Krishnamurthy & others Vs. The Sub Divisional Magistrate cum Revenue Divisional Officer, Krishnagiri).

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4. The petitioner appears to be a history sheeted rowdy and the learned Additional Public Prosecutor wants this Court to take note of the bad antecedents of the petitioner. I am not able to accept the aforesaid contention. The antecedents of the petitioner are not quite relevant when the notice is not in consonance with the statutory scheme set out under Section 111 of Cr.P.C. I am constrained to quash the same even though the petitioner may have bad antecedents. The impugned notice is accordingly quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

rmi

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 cum
Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.
- 2.The Inspector of Police,
Kariyapatti Police Station, Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CrI.O.P (MD) No.17630 of 2021
and
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15.11.2021

AR (CO)

<https://hcservices.courts.gov.in/hcservices/>
SB(29.11.2021) 2P 4C