



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.19619 of 2021

and

Crl.M.P. (MD)No.10979 of 2021

WEB COPY

Syed Ali @ Mullan Syed Ali ... Petitioner / Sole Accused

Vs

1.The Executive Magistrate cum
Assistant Commissioner (L&O),
Tirunelveli,
Tirunelveli District.

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

... Respondents/Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records relating to the summon in E.M.C.No.367/2021 passed by the first respondent dated 20.11.2021 and quash the same and allow this petition.

For Petitioner : Mr.C.Susi Kumar
For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

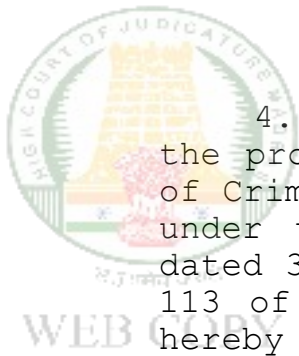
ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

2. The petitioner has been served with summons under Section 113 of Cr.P.C. The petitioner's counsel points out that last year in the month of December, he was issued with a similar summon. The petitioner's counsel submitted that vide order dated 01.12.2021, a learned Judge of this Court quashed the same in Crl.O.P. (MD)No.1209 of 2021.

3. Paragraph 3 and 4 of the said order reads as follows:-

"3. In the instant case, even though the proceedings state that a notice under Section 113 of Code of Criminal Procedure is issued, a perusal of the entire proceedings shows that it is the show cause notice under Section 110 of the Code of Criminal Procedure and therefore, the Executive Magistrate cannot be found fault with in issuing the said proceedings.



4. The main contention of the petitioner is that since the proceedings states that summon under Section 113 of Code of Criminal Procedure is issued, the same cannot be sustained under the law. In the circumstances, the impugned summon dated 31.12.2020 issued by the first respondent under Section 113 of Code of Criminal Procedure in EMC.No.347 of 2020 is hereby quashed and the first respondent is at liberty to initiate fresh proceedings in accordance with the procedure that has been provided under the Code of Criminal Procedure."

4. The case on hand is squarely covered by the aforesaid order. Respectfully following the same, the impugned summon is quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// 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
Assistant Commissioner (L&O),
Tirunelveli,
Tirunelveli District.
- 2.The Inspector of Police,
Melapalaiyam Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P (MD) No.19619 of 2021
10.12.2021

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