



Crl.O.P.No.3937 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.3937 of 2022

and

Crl.M.P.No.1903 of 2022

1. K.Kumaravel
S/o. Krishnan

2.M.Janakiraman
S/o.Manavalan

3. R.Kumar
S/o.Raman

4. M.Damodaran @ Damu
S/o. Manavalan

5. M.Arunagiri
S/o.Manavalan

6. K.Saravanan
S/o.Krishnan

7. M.Mohan
S/o.Munusamy

... Petitioners

Vs.



Crl.O.P.No.3937 of 2022

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1.The Sub-Divisional Magistrate cum
Revenue Divisional Officer,
Maduranthagam,
Chengalpet District.

2.The State Rep. By its
Inspector of Police,
G7 Achirupakkam Police Station,
Chengalpet District.
(Crime No.463 of 2021)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records in Na.Ka.No.303/2022, dated 07.02.2022
on the file of the first respondent, peruse and quash the proceedings
thereon.

For Petitioners : Mr. R.Sreerangan

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This petition is filed to quash the proceedings in
Na.Ka.No.303/2022 dated 07.02.2022 on the file of the first respondent
under Section 107 Cr.P.C.



Crl.O.P.No.3937 of 2022

WEB COPY

2.The learned counsel appearing for the petitioners submitted that the impugned proceedings dated 07.02.2022 under Section 107 Cr.P.C, under challenge is void, and the proceedings against the petitioners are nullity and without any jurisdiction as substance of information received as required is incomplete and ambiguous. Summon, without substance of information vitiate the proceedings. Failure to comply with the mandatory requirements of Section 111 Cr.P.C vitiates the preliminary order consequently, the proceeding. Hence, the learned counsel pleaded to quash the impugned summon.

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 contended that in the impugned summon, adequate information is given to the petitioners and it is enough to the persons notified to defend themselves against the allegations. Hence, he pleaded to dismiss the original petition.

4.I have considered the matter in the light of the submissions made



CrI.O.P.No.3937 of 2022

by the learned counsel for the parties.

5.The impugned summon is ordered by the Revenue Divisional Officer on 07.02.2022 under Section 107 Cr.P.C. On perusal of the impugned summon issued under Section 107 Cr.P.C, it is seen that the proceedings under Section 107 is instituted by a preliminary order under Section 111 Cr.P.C, which shall comply the following conditions:-

- (i) the order must be written
- (ii) substance of information against the person must be disclosed
- (iii) the amount of bond, period for the bond, number, character and class of sureties must be disclosed in the preliminary order under Section 111 Cr.P.C

6.The issue of summon under Section 111 Cr.P.C is judicial act, the object behind this summon is to enable the person to prepare for the defence. After the order is served, an enquiry is to be held under Section 116 Cr.P.C. After concluding enquiry, the Revenue Divisional Officer/(put the first respondent) shall pass final order. Unless the Revenue Divisional Officer/(put the first respondent) is placed with the



Crl.O.P.No.3937 of 2022

mandatory requirements of the provisions of law under Section 111 Cr.P.C, they will have no jurisdiction to direct the person to proceed against to appear before him or to secure their presence for the purpose of enquiry. The Hon'ble Apex Court has issued guidelines in the cases of ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)***, ***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315) & PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)*** that the matter has to be investigated to find out the truth.

7.In the instant case, the impugned summon dated 07.02.2022 contain only vague information about the complaint/information given by the Inspector of Police and the substance of information received is incomplete. Thus, the summon without substance of information nullify the proceeding. The failure to comply with the mandatory requirements of setting forth, the substance of information under Section 111 Cr.P.C vitiate the notice/order and consequently, the proceeding would be quashed.



Crl.O.P.No.3937 of 2022

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8.Further, a perusal of the impugned summon, it is seen that the Sub-Divisional Officer cum Revenue Divisional Officer, Maduranthagam, Chengalpet District called the petitioners to appear for certain enquiry on 15.02.2022. Now, the said date is over. Hence, the impugned proceedings is hereby quashed.

9.In the result, the Criminal Original Petition is allowed. The impugned summon in Na.Ka.No.303/2022 dated 07.02.2022 issued by the first respondent, the Sub-Divisional Officer cum Revenue Divisional Officer, Maduranthagam, Chengalpet District, is hereby quashed. Consequently, connected miscellaneous petition is closed.

14.11.2022

Internet:Yes
Index:Yes/No
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Crl.O.P.No.3937 of 2022

To

- 1.The Sub-Divisional Magistrate cum
Revenue Divisional Officer,
Maduranthagam,
Chengalpet District.
- 2.The Inspector of Police,
G7 Achirupakkam Police Station,
Chengalpet District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Crl.O.P.No.3937 of 2022

V.SIVAGNANAM, J.

vum

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Crl.O.P.No.3937 of 2022

14.11.2022