



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.4810 of 2022

in

Crl.M.P(MD)No.3397 of 2022

WEB COPY

Naganathan @ Baskaran

...Petitioner

Vs.

1. The Second Class Executive Magistrate/Tahsildar,
Paramakudi,
Ramanathapuram District.

2. The Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records pertaining to the proceedings in MC.No.62 of 2022 on the file of the 1st respondent and quash the same as illegal.

For Petitioner : Mr.R.Gowrishankar

For R1 and R2 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The petition has been filed to quash the proceedings in M.C.No.62 of 2022, on the file of the first respondent.

2.The second respondent submitted the report before the first respondent, on receipt of the said report, the first respondent issued the impugned summon as against the petitioner to take action under Sections 110 and 111 of Cr.P.C. alleging that there was an incident which disturbed public tranquillity within the jurisdiction of the second respondent police station.

3.On perusal of the impugned summon, it reveals that there is no substance of the information received from the second respondent and the amount of the bond to be executed, the term for which it is to be enforced and the number, character and class of sureties required were not mentioned in the impugned summon issued under Sections 110 and 111 of Cr.P.C.

4.It is relevant to extract the provision under Section 111 of Cr.P.C. as follows:

*'Order to be made. When a Magistrate acting
under section 107, section 108, section 109 or*



section 110, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth 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. '

5. Admittedly, the first respondent failed to make an order in writing, setting forth the substance of the information received from the second respondent. The first respondent also failed to mention the amount of the bond to be executed by the petitioner.

6. That apart, the learned Counsel appearing for the petitioner stated that so far no case has been registered as against the petitioner and as such there is absolutely no apprehension that there will be no action, which disturbs the public tranquillity by the petitioner herein. Further, Section 110 of Cr.P.C. can be invoked only as against the habitual offender. Admittedly, there is no case is pending as against the petitioner.

7. In view of the above, the impugned summon issued by the first respondent cannot be sustained as against the petitioner and is liable to be quashed. Accordingly, the proceedings in M.C.No.62 of 2022 are quashed and the criminal original petition is allowed. Consequently, the connected miscellaneous petition is also closed. However, the first respondent is at liberty to issue fresh summon, after complying with the Section 111 of Cr.P.C to the petitioner.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

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 Second Class Executive Magistrate/Tahsildar,
Paramakudi,
Ramanathapuram District.

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



2. The Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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MGJ(30.03.2022) 3P 4C