



CrI.O.P.(MD) No.5963 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.5963 of 2022

and

CrI.M.P(MD) Nos.4177 and 4179 of 2022

1. Periyasamy
2. Bala
3. Murugesan
4. Tamilarasi

... Petitioners/ A - Party

Vs

1. The Sub Divisional Magistrate,
Paramakudi,
Ramanathapuram District.

... 1st respondent/Authority

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

... 2nd Respondent/ Complainant

3. Kannadasan
4. Muneeswari

... 3rd & 4th Respondents/B- Party

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the impugned order passed in M.C.No.17 of 2022 on the file of the Sub-Divisional Magistrate, Paramakudi, dated 08.02.2022



CrI.O.P.(MD) No.5963 of 2022

For Petitioners : Mr.K.Kumaravel
Advocate.

For R1 and R2 : Mr.E.Antony Sahaya Prabhar
Additional Public Prosecutor.

ORDER

This petition is filed to quash the proceedings initiated by the first respondent in MC No.17/2022, dated 08.02.2022 as against the petitioners under Section 107 and 111 of Cr.P.C.

2.The learned counsel appearing for the petitioners submitted that the impugned notice dated 08.02.2022 under Section 111 Cr.P.C under challenge is void, and the proceedings against the petitioners is nullity and without any jurisdiction as substance of information received as required is incomplete and ambiguous. Notice 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 summons.



CrI.O.P.(MD) No.5963 of 2022

WEB COPY

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 contended that in the impugned notice, adequate information is given to the petitioners, it is enough to the person notified to defend themselves against the allegations. When they had clear notice of the case against them, there may not be any prejudice. Hence, he pleaded to dismiss the original petition.

4.I have considered the matter in the light of the submissions made by the learned counsel for the parties.

5.The impugned notice is ordered by the Sub-Divisional Magistrate, Paramakudi on 08.02.2022 under Section 111 Cr.P.C. On perusal of the impugned notice issued under Section 107 and 111 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 notice under Section 111 Cr.P.C is judicial act, the object behind this notice is being 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 Sub Divisional Magistrate then pass final order. Unless the Sub Divisional Magistrate place with the 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 persons for the purpose of enquiry.

7.In the instant case, the impugned summon dated 08.02.2022 mentioning only vague information about the complaint/information given by the Inspector of Police, substance of information received as required is incomplete. Thus, the notice 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.



CrI.O.P.(MD) No.5963 of 2022

8.Further, a perusal of the impugned notice, it is seen that the Sub-Divisional Magistrate called the petitioners to appear certain enquiry on 14.02.2022. Now, the said date is over. Hence, the impugned proceedings is liable to be quashed.

9.Accordingly, this Criminal Original Petition is allowed. The impugned order, dated 08.02.2022 on the file of the Sub-Divisional Magistrate, Paramakudi is hereby quashed. Consequently, connected miscellaneous petitions are also closed.

11.07.2022

Internet:Yes./No
Index:Yes/no
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To

1. The Sub Divisional Magistrate,
Paramakudi, Ramanathapuram District.
2. The Inspector of Police,
Mudukulathur Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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CrI.O.P.(MD) No.5963 of 2022

V.SIVAGNANAM, J.

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ORDER IN
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