



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2022

CORAM:

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

Crl.O.P.(MD).No. 6142 of 2022

and

Crl.M.P(MD)No.4260 of 2022

Raseed Athali @ Raseed Ali

...Petitioner

Vs.

1.The Second Class Executive Magistrate
cum Tahsildar,
Ramanathapuram,
Ramanathapuram District.

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

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the entire records pertaining to the impugned summon as against the petitioner is concerned in M.C.No.A3/110/22, dated 25.03.2022 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.M.Seenisulthan

For Respondents : Mr.R.M.Anbunithi

Additional Public Prosecutor

ORDER

The criminal original petition has been filed to set aside the summons issued in M.C.No.A3/110/22, dated 25.03.2022 on the file of the first respondent.

2.By the impugned summons, the first respondent called upon the petitioner to appear on 06.04.2022 for initiation of the proceedings under Section 110 (e) of Cr.P.C.

3.On perusal of the summons, it doesn't say about the show cause notice and period of bond. It is relevant to extract the provision of Section 111 of Cr.P.C:

'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. '

4.It contemplates to show cause to the person who is alleged to commit breach of rules. But, without any show cause notice, straight away the summons was issued under Section 111 of Cr.P.C, based on the report submitted by the second respondent. Further, it should contain the substance of the information received from the second respondent, the amount of bond to be executed and the term for which, it is to be in force along with number, character and class of sureties, whereas, the impugned summon does not contain all those things and as such, it cannot be sustained as against the petitioner herein.

5.In view of the above, the summon issued in M.C.No. A3/110/22, dated 25.03.2022 is set aside. Accordingly, the criminal original petition is allowed. However, the first respondent is at liberty to issue a fresh notice under Section 111 of Cr.P.C in accordance with law. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Second Class Executive Magistrate
cum Tahsildar,
Ramanathapuram,
Ramanathapuram District.

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

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

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