



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2022

CORAM:

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

Crl.O.P.(MD) No.7562 of 2022

and

Crl.M.P(MD) No.5149 of 2022

Abul Kalam Asath

...Petitioner/ Respondent

Vs.

1.The Sub Divisional Executive Magistrate/The Revenue Divisional Officer,
O/o. The Executive Magistrate/ The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.

2. The Inspector of Police,
Sethubava Sathiram Police Station,
Thanjavur District. ...Respondents/ Complainants

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in connection with the impugned proceedings in M.C.Unnumbered/2022/A3 Dated 04.02.22 on the file of the 1st respondent and Quash the same as illegal.

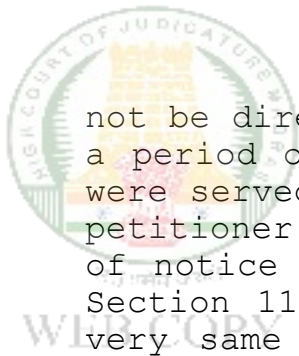
For Petitioner : Mr.K.Navaneetharaj

For Respondents : Mr.R.M.Anbunithi
No.1 & 2 Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed call for the records in connection with the impugned proceedings in M.C.Unnumbered/2022/A3 Dated 04.02.22 on the file of the 1st respondent and Quash the same as illegal.

2. The petitioner is a history sheeted rowdy in H.S.No.584 of 2013. While being so, on 10.02.2022 the petitioner was served with a notice under Section 111 and 113 of Cr.P.C for initiation of proceedings under Section 107 of Cr.P.C, thereby he was directed to appear before the first respondent on 11.02.2022 and why he should



not be directed to execute bond in order to maintain public peace for a period of one year. On the same day on 04.02.2022, the summons were served to the petitioner under Section 113 of Cr.P.C. When the petitioner failed to appear before the first respondent on receipt of notice under Section 111 of Cr.P.C, then only the notice under Section 113 of Cr.P.C arise, whereas in the case on hand, on the very same date on 04.02.2022, the first respondent issued notice under Section 111 of Cr.P.C as well as Section 113 of Cr.P.C. It is relevant to extract the provisions under Sections 111 and 113 of Cr.P.C, which reads as follows:

"111. 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.

113. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the Commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest"

3. Section 111 of Cr.P.C speaks about sending show cause notice, as to why he should execute bond for a period of one year in order to maintain public peace, whereas provision under Section 113 of Cr.P.C relates to summons or warrant. In the case on hand, if such person is not present before Court on receipt of notice under Section 111 of Cr.P.C, the first respondent shall issue summon requiring him to appear. That apart on perusal of the notice under Section 111 of Cr.P.C, it does not contain any date of execution of bond by the petitioner herein, therefore the entire proceedings are initiated by the first respondent without following the procedure initiated under Section 111 of Cr.P.C.

4. In view of the same, the impugned order passed by the first respondent in M.C.unnumbered/2022/A3 is hereby quashed and the Criminal Original Petition is allowed. The first respondent is at liberty to issue fresh summons to the petitioner by complying with



the provisions under Section 111 of Cr.P.C in the manner known to law for initiation of proceedings under Section 107 of Cr.P.C. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (RTI)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

aav

To

- 1.The Sub Divisional Executive Magistrate/
The Revenue Divisional Officer,
O/o. The Executive Magistrate/ The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
2. The Inspector of Police,
Sethubava Sathiram Police Station,
Thanjavur District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

Crl.O.P.(MD) No.7562 of 2022

and

Crl.M.P(MD) No.5149 of 2022

25.04.2022

RD(25.05.2022) 3P 4C