



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.7447 of 2022

and

Crl.M.P(MD)Nos.5068 and 5070 of 2022

Kajamydeen @ Kaja Mohideen

... Petitioner

Vs.

1.The Executive Magistrate and
Deputy Commissioner of Police,
(Law and Order),
Tirunelveli City.

2.The Inspector of Police,
Melappalayam Police Station,
Tirunelveli City.

... Respondents

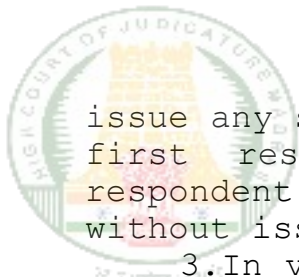
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the proceedings in EMC.No.36 of 2022 on the file of the first respondent herein, dated 04.04.2022 and quash the same as illegal.

For Petitioners : Mr.T.Lenin Kumar
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Crl. Side)

ORDER

The Criminal Original Petition has been filed to quash the proceedings in EMC.No.36 of 2022 on the file of the first respondent herein, dated 04.04.2022.

2.The first respondent initiated a proceedings against the petitioner contemplated under Section 107 of Cr.P.C., since he received information from the second respondent that the petitioner indulged in the act of affecting public tranquility. In this connection, the first respondent sent a notice to the petitioner contemplated under Section 113 of Cr.P.C. The summon under Section 113 of Cr.P.C will arise, when the petitioner was served with notice under Section 111 of Cr.P.C. and thereafter if such person is not present in Court, the first respondent shall issue in a summons requiring him to appear for the enquiry under Section 113 of Cr.P.C. In the case on hand, admittedly the first respondent herein did not



issue any summon to the petitioner under Section 111 of Cr.P.C. The first respondent had perused the information of the second respondent as if we issued summon under Section 113 of Cr.P.C. without issuing notice under Section 111 of Cr.P.C.

3.In view of the above, the impugned summon cannot be sustained as against the petitioner without issuing any notice under Section 111 of Cr.P.C. However, the first respondent is at liberty to issue notice under Section 111 of Cr.P.C. in accordance with law and for proceed further as against the petitioner.

4.Accordingly the Criminal Original Petition stands allowed and the proceedings in EMC.No.36 of 2022, dated 04.04.2022 on the file of the first respondent is hereby quashed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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 Executive Magistrate and
Deputy Commissioner of Police,
(Law and Order),
Tirunelveli City.
- 2.The Inspector of Police,
Melappalayam Police Station,
Tirunelveli City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-20914[F] dated 25/04/2022)

Crl.O.P(MD)No.7447 of 2022

and

Crl.M.P(MD)Nos.5068 and 5070 of 2022

22.04.2022

MGJ(26.05.2022) 2P 5C

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