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8BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.04.2022
CORAM:
THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**
Crl.O.P.(MD) No.7714 of 2022
and
Crl.M.P(MD) No.5263 of 2022

Sakthi ...Petitioner/Respondent

Vs.

1. The Second Class Executive Magistrate,
   Cum Tahsildar,
   Thiruvadanai,
   Ramnad District.

2. The Inspector of Police,
   S.P.Pattinam Police Station,
   Ramnad District. ...Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for records relating to the proceedings in MC.No.77 of 2022 dated 08.04.2022 on the file of the 1st Respondent and quash the same.

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

ORDER

This Criminal Original Petition has been filed to call for the entire records in relating to the impugned proceedings of the first respondent in MC.No.77 of 2022 dated 08.04.2022 and to quash the same

2. The first respondent initiated proceedings under Section 110 of Cr.P.C as against the petitioner on the representation of the second respondent. The second respondent made request alleging that there is likelihood that the petitioner may cause breach of peace in his locality by his illegal activities.

3. On receipt of the information the first respondent issued notice under Section 110 of Cr.P.C in MC.No.77 of 2022 dated 08.04.2022, thereby calling upon the petitioner to appear before the first respondent on 12.04.2022 at about 11.00am., On perusal of the impugned summon it is seen that it does not contain any basic ingredients as required under Section 111 of Cr.P.C. It is relevant to extract the provisions under Section 111 of Cr.P.C, which reads as follows:

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> ***"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"*

4. The first respondent ought to have passed the impugned order containing the substance of information received, the amount of bond to be executed , the terms for which it is to be in force and the number, character and class of sureties which is in force. However on receipt of information from the second respondent, whereas the first respondent mechanically issued the impugned summons without application of mind and it is totally contrary under Section 111 of Cr.P.C.

5. In view of the same, the impugned order passed by the first respondent in MC.No.77 of 2022 dated 08.04.2022 is set aside 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. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Second Class Executive Magistrate,
   Cum Tahsildar,
   Thiruvadanai,
   Ramnad District.

2. The Inspector of Police,
   S.P.Pattinam Police Station,
   Ramnad District.

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Copy to

The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

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and
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26.04.2022

SP(CO)
KB(09.05.2022) 3P 4C

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