



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P (MD)No.8538 of 2022

WEB COPY

Moorthy

... Petitioner

Vs

1.The Second Class Executive Magistrate and
Thasildar,
Revenue Office,
Kamuthi,
Ramanathapuram District.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorari, to call for the records relating to the impugned show cause notice in M.C.No.38 of 2022 dated 13.04.2022 issued by the first respondent and quash the same as illegal.

For Petitioner : Mr.R.Suriyanarayanan

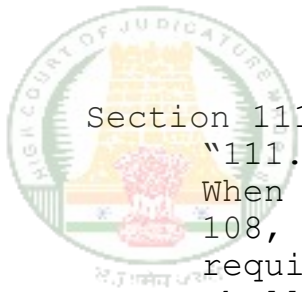
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

O R D E R

This Writ Petition has been filed for issuance of a writ of Certiorari Mandamus, to quash the impugned show cause notice in M.C.No.38 of 2022 dated 13.04.2022 issued by the first respondent.

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 M.C.No.38 of 2022 dated 13.04.2022, thereby calling upon the petitioner to appear before the first respondent, 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:

"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 M.C.No.38 of 2022 dated 13.04.2022 is set aside and the writ 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. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsg

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 Second Class Executive Magistrate and

Thasildar,

Revenue Office,

Kamuthi,

<https://hcservices.ecm.mca.gov.in/hcservices> District.



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

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

Order made in
W.P (MD) No.8538 of 2022
29.04.2022

PKP/26.05.2022/3P/4C