



W.P(MD)No.10797 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.06.2022
Delivered on : 29.06.2022

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CORAM :

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P(MD)No.10797 of 2022
and
W.M.P(MD)No.7776 of 2022

V.C.Selvam @ Selvaraj

...Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Dindigul District.

2.The Second Class Executive Magistrate and Tahsildar,
Office of the Tahsildar,
Vedasanthur, Dindigul District.

3.The Inspector of Police,
Eriodu Police Station,
Dindigul District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records connected with the impugned proceedings in MC No. 23/2022-31 dated 16.05.2022 on the file of the respondent No.2 and



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quash the same as illegal and consequently, direct the respondent Nos.1 and 2 to consider the petitioner's representation dated 29.05.2022 in accordance with time stipulated by this Court.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.M.Sakthikumar
Government Advocate (crl.side)

ORDER

Challenging the impugned notice passed by the second respondent/ Second Class Executive Magistrate and Tahsildar, Vedasanthur, in MC No.23/2022-951 dated 16.05.2022, the present writ petition has been filed.

2.The learned counsel appearing for the petitioner submitted that the impugned notice dated 16.05.2022 under Section 111 Cr.P.C under challenge is void, and the proceedings against the petitioner is nullity and without any jurisdiction as substance of information received as required is incomplete and ambiguous. Notice without substance of information vitiate the proceedings. Failure to comply with the mandatory requirements of Section 111 Cr.P.C vitiates the preliminary order



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consequently, the proceeding. Hence, the learned counsel pleaded to quash the impugned summons.

3.The learned Additional Public Prosecutor appearing for the respondents contended that in the impugned notice, adequate information is given to the petitioner, it is enough to the person notified to defend himself against the allegations. When they had clear notice of the case against them, there may not be any prejudice. Hence, he pleaded to dismiss the original petition.

4.I have considered the matter in the light of the submissions made by the learned counsel for the parties.

5.The impugned notice is ordered by the Second Class Executive Magistrate and Tashildar on 16.05.2022 under Section 111 Cr.P.C. On perusal of the impugned notice issued under Section 111 Cr.P.C, it is seen that the proceedings under Section 110 is instituted by a preliminary order under Section 111 Cr.P.C, which shall comply the following conditions:-



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- (i) the order must be written
- (ii) substance of information against the person must be disclosed
- (iii) the amount of bond, period for the bond, number, character and class of sureties must be disclosed in the preliminary order under Section 111 Cr.P.C

6.The issue of notice under Section 111 Cr.P.C is judicial act, the object behind this notice is being to enable the person to prepare for the defence. After the order is served, an enquiry is to be held under Section 116 Cr.P.C. After concluding enquiry, the II Class Executive Magistrate-cum-Tashildar then pass final order. Unless the II Class Executive Magistrate-cum-Tashildar place with the mandatory requirements of the provisions of law under Section 111 Cr.P.C, they will have no jurisdiction to direct the person to proceed against to appear before him or to secure their persons for the purpose of enquiry.

7.In the instant case, the impugned summon dated 16.05.2022 mentioning only vague information about the complaint/information given by the Inspector of Police, substance of information received as required is incomplete. Thus, the notice without substance of



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information nullify the proceeding. The failure to comply with the mandatory requirements of setting forth, the substance of information under Section 111 Cr.P.C vitiate the notice/order and consequently, the proceeding would be quashed.

8.Further, a perusal of the impugned notice, it is seen that the second Class Executive Magistrate and Tashildar called the petitioner to appear certain enquiry on 27.05.2022. Now, the said date is over. Hence, the impugned proceedings is liable to be quashed.

9.Accordingly, this writ Petition is allowed and the impugned summons in MC No.23/2022-23 dated 16.05.2022 is hereby quashed. Consequently, connected miscellaneous petition is also closed.

29.06.2022

Index :Yes/No
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To

1.The District Collector,
Office of the District Collector,
Dindigul District.

2.The Second Class Executive Magistrate and Tahsildar,
Office of the Tahsildar,
Vedasanthur, Dindigul District.

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3.The Inspector of Police,
Eriodu Police Station,
Dindigul District.

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



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V.SIVAGNANAM., J

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