

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	16.06.2022
Delivered on	28.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.10640 of 2022

and

Crl.M.P(MD)No.6654 of 2022

1.M.Parvatham
2.Rejeshkannan
3.U.Muthupandi
4.Mathiyalagan
5.Nagavel

...Petitioners

Vs.

1.The Sub Divisional Magistrate,
Paramakudi,
Ramanathapuram District.

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

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the summon in MC No.37 of 2022 passed by the first respondent dated 26.04.2022 and quash the same.

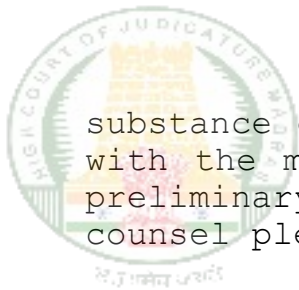
For Petitioner : Mr.K.Sathishkumar

For Respondents : Mr.E.Antony Sahaya Prabahar
Addl. Public Prosecutor

ORDER

This petition is filed to quash the summons dated 26.04.2022 made in MC No.37 of 2022 issued by the first respondent, Sub Divisional Magistrate, Paramakudi, Ramanathapuram District under Section 111 Cr.P.C.

2.The learned counsel appearing for the petitioners submitted that the impugned notice dated 26.04.2022 under Section 111 Cr.P.C under challenge is void, and the proceedings against the petitioners 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 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 petitioners, 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.

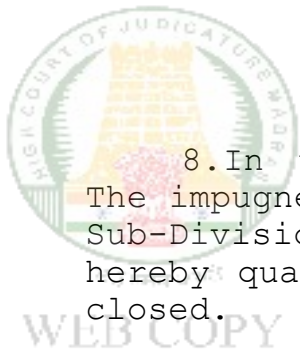
4.I have considered the matter in the light of the submissions made by the learned counsel for the parties.

5.The impugned notice is ordered by the Sub-Divisional Magistrate on 26.04.2022 under Section 111 Cr.P.C. On perusal of the impugned notice issued under Section 107 and 111 Cr.P.C, it is seen that the proceedings under Section 107 is instituted by a preliminary order under Section 111 Cr.P.C, which shall comply the following conditions:-

- (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 Sub-Divisional Magistrate then pass final order. Unless the Sub-Divisional Magistrate 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 26.04.2022 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 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 vitiates the notice/order and consequently, the proceeding would be quashed.



8.In the result, the Criminal Original Petition is allowed. The impugned summon dated 26.04.2022 issued by the first respondent, Sub-Divisional Magistrate, Paramakudi, Ramanthapuram District, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

skn

To

1.The Sub Divisional Magistrate,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Parthibanoor Police Station,
Ramanthapuram District.

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

+1 CC to M/s.K. SATHISH KUMAR, Advocate (SR-29113[F] dated
30/06/2022)

Crl.O.P.(MD) No.10640 of 2022

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28.06.2022

SG(CO)

TR(06.07.2022) 3P 4C