

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	14.06.2022
Delivered on	28.06.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) Nos.10479 & 10494 of 2022

and

Crl.M.P(MD)Nos.6546 & 6551 of 2022

Palpandi ...Petitioner/Respondent
in Crl.O.P(MD)No.10479 of 2022

Raguman ...Petitioner/Respondent
in Crl.O.P(MD)No.10494 of 2022

Vs.

1.The II Class Executive Magistrate,
cum Tashildar, Thiruvadanai,
Ramnad District.

2.The Inspector of Police,
Thondi Police Station,
Ramnad District. ...Respondents/Complainants in both petitions

COMMON PRAYER: Criminal Original Petition a filed under Section 482 Cr.P.C. praying to call for the records relating to the proceedings in MC Nos.111 & 110 of 2022 respectively dated 17.05.2022 on the file of the first respondent and quash the same.

In both petitions:-

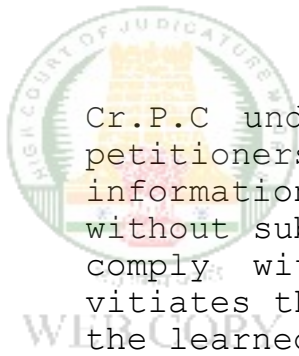
For Petitioners : Mr.D.Venkatesh
For Respondents : Mr.E.Antony Sahaya Prabahar
Addl. Public Prosecutor

COMMON ORDER

These petitions are filed to quash the proceedings in MC Nos.110 and 111 of 2022 dated 17.05.2022 issued by the first respondent/II Class Executive Magistrate-cum-Tashildar, Thiruvadanai, Ramnad District under Section 111 Cr.P.C.

2.The learned counsel appearing for the petitioners submitted that the impugned proceedings dated 17.05.2022 under Section 111

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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 proceedings, 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 petitions.

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

5.The impugned proceedings are ordered by the II Class Executive Magistrate-cum-Tashildar, Thiruvadanai, Ramnad District on 17.05.2022 under Section 111 Cr.P.C. On perusal of the impugned notices issued under Section 110 and 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:-

- (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 proceedings dated 17.05.2022 mentioning only vague information about the complaint/information given by the Sub-Inspector of Police, substance of information received as required is incomplete. Thus, the notice without substance of information nullify the proceeding. Hence, the learned counsel pleaded to quash the impugned summons and to set aside the preliminary order under Section 111 Cr.P.C 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.In the result, the Criminal Original Petitions are allowed. The impugned proceedings in MC Nos.110 and 111 of 2022 dated 17.05.2022 issued by the first respondent, II Class Executive Magistrate-cum-Tashildar, Thiruvadanai, Ramnad District, are hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/07/2022

Sub Assistant Registrar(CS)

skn

To

1.The II Class Executive Magistrate,
cum Tashildar, Thiruvadanai,
Ramnad District.

2.The Inspector of Police,
Thondi Police Station,
Ramnad District.

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

+2 CC to M/s.D. VENKATESH, Advocate (SR-25749 & 28795[F]

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and

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28.06.2022

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