



CrI.O.P.(MD) No.11803 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.(MD) No.11803 of 2022

and

CrI.M.P(MD)Nos.7460 & 7461 of 2022

- 1.Mookiah
- 2.Shanthi
- 3.Shanmugapriya
- 4.Anushiya

...Petitioners

Vs.

- 1.The Sub Divisional Magistrate-
cum-Revenue Divisional Officer,
Tirunelveli.

- 2.The Inspector of Police,
Sivandipatti Police Station,
Tirunelveli.

- 3.Gopla Devaraj

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the impugned show cause notice in A5/MC No.20 of 2022 (107) dated 31.05.2022 on the file of the first respondent and quash the same.



Crl.O.P.(MD) No.11803 of 2022

For Petitioner : Mr.T.Lajapathy Roy

For Respondents : Mr.E.Antony Sahaya Prabahar
Addl. Public Prosecutor
(for R1 and R2)

ORDER

This petition is filed to quash the show cause notice in A5/MC No. 20 of 2022 (107) dated 31.05.2022 on the file of the first respondent under Section 107 and 111 Cr.P.C.

2.The learned counsel appearing for the petitioners submitted that the impugned notice dated 31.05.2022 under Section 107 Cr.P.C issued 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.



CrI.O.P.(MD) No.11803 of 2022

WEB COPY

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 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 31.05.2022 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,



Crl.O.P.(MD) No.11803 of 2022

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 show cause notice dated 31.05.2022 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 information nullify the proceeding. The failure to comply with the mandatory requirements of setting forth, the substance of



Crl.O.P.(MD) No.11803 of 2022

WEB COPY

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 show cause notice, it is seen that the Sub-Divisional Magistrate-cum-Revenue Divisional Officer, Tiruenveli called the petitioners to appear certain enquiry on 15.06.2022. Now, the said date is over. Hence, the impugned proceedings is hereby quashed.

9.In the result, the Criminal Original Petition is allowed. The impugned show cause notice in A5/MC No.20 of 2022 (107) dated 31.05.2022 issued by the first respondent, Sub-Divisional Magistrate-cum-Revenue Divisional Officer, Tirunelveli is hereby quashed. Consequently, connected miscellaneous petitions are closed.

01.07.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
skn

5/7



Crl.O.P.(MD) No.11803 of 2022

To

WEB COPY

- 1.The Sub Divisional Magistrate-cum-Revenue Divisional Officer,
Tirunelveli.
- 2.The Inspector of Police,
Sivandipatti Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



WEB COPY



CrI.O.P.(MD) No.11803 of 2022

V.SIVAGNANAM, J.

skn

CrI.O.P.(MD) No.11803 of 2022
and
CrI.M.P(MD)Nos.7460 & 7461 of 2022

01.07.2022