



CRL.O.P (MD) No.12156 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.12156 of 2022

Arockiya Jegathees J @ Jegathees

...Petitioner/3rd Respondent

Vs.

1.The Sub Divisional Executive Magistrate (First Class)
Cum The Revenue Divisional Court,
Thiruchendur,
Thoothukudi District.

2.The Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.

...Respondents/Complainants

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., praying to call for the entire records pertaining to the proceedings in M.C.No.304 / 2022 pending on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.R.Aravind Raj

For Respondents : Mr.E.Antony Sahaya Prabhakar
Additional Public Prosecutor

ORDER

This petition is filed to quash the proceedings initiated by the first respondent in M.C.No.304 / 2022 dated 35.05.2022 as against the petitioner under Section 107 and 111 of Cr.P.C.



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2.The learned counsel appearing for the petitioners submitted that the impugned notice dated 05.05.2022 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 I Class Sub Divisional Executive Magistrate-cum-Revenue Divisional Officer on 30.05.2022 under



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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 I Class Sub Divisional Executive Magistrate-cum-Revenue Divisional Officer then pass final order. Unless the I Class Sub Divisional Executive Magistrate-cum-Revenue Divisional Officer 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.



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7.In the instant case, the impugned summon dated 30.05.2022 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 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 I Class Sub Divisional Executive Magistrate-cum-Revenue Divisional Officer called the petitioner to appear certain enquiry on 01.06.2022. Now, the said date is over. Hence, the impugned proceedings is liable to be quashed.

9.Accordingly, this Criminal Original Petition is allowed. The impugned order in M.C.No.304 / 2022, dated 30.05.2022 on the file of the first respondent is hereby quashed.

07.07.2022

Internet: Yes./No
Index: Yes/no
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- 3.Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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V.SIVAGNANAM, J.

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