



Crl.O.P.(MD) No.12086 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.12086 of 2022

and

Crl.M.P.(MD).Nos.7639 and 7640 of 2022

Gopi

...Petitioner

Vs.

1.The Sub-Divisional Magistrate and
Revenue Divisional Officer,
Madurai.

2.The State,
Represented by,
The Sub-Inspector of Police,
Kadupatti Police Station,
Kadupatti,
Madurai District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of the first respondent, the learned Sub-Divisional Magistrate cum Revenue Divisional Officer, Madurai in Na.Ka.No.4479/2022/C, dated 22.06.2022 and quash the same.



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For Petitioner : Mr.S.Anand

For Respondents : Mr.M.Sakthi Kumar,
Government Advocate,
(Criminal Side).

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Na.Ka.No.4479/2022/C, dated 22.06.2022 passed by the first respondent.

2. The facts of the case are that the petitioner is constantly behaving rudely in the public places and interfering with the public and traffic and he has been warned by the Police for several times. A case has been registered in L.I.R.No.4 of 2022 by the second respondent Police and the second respondent is requested to take action as per Section 110 of Cr.P.C to restrain the petitioner's activities in future. As per Section 111 Cr.P.C., the petitioner is directed to appear in person in the presence of the Sub-Divisional Magistrate-cum-Revenue Divisional Officer, Madurai. The impugned order, dated 22.06.2022 came to be passed by the first respondent. Aggrieved over the same, the present Criminal Original Petition has been filed to quash the impugned order.



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3. The learned counsel for the petitioner submitted that the first respondent passed the impugned order dated 22.06.2022. Without following the mandatory provisions of Section 111 Cr.P.C, he straight away issued the impugned order, which is legally unsustainable and is liable to be quashed. Thus, he pleaded to quash the proceedings.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that before issuing notice under Section 110 Cr.P.C, the first respondent had not issued any show cause notice under Section 111 Cr.P.C as contemplated with condition as prescribed under Section 111 Cr.P.C.

5. I have considered the submission of the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and perused the records.

6. Perusal of records reveals that the first respondent passed the impugned order, in Na.Ka.No.4479/2022/C, dated 22.06.2022 directing the petitioner to execute a bond for a sum of Rs.50,000/- (Rupees Fifth



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Thousand only) for his good behaviour. Before passing this order under Section 110 Cr.P.C, the first respondent ought to have followed the procedures as contemplated under Section 111 Cr.P.C. It is seen that the proceedings under Section 110 Cr.P.C, 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; and*
- (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.*

7. In the absence of following the procedures as prescribed under Section 111 Cr.P.C, the order passed under Section 110 Cr.P.C will not be sustainable. Therefore, it is the case of clear violation of non following the mandatory provisions under Section 111 Cr.P.C. Therefore, it is liable to be quashed. Hence, the impugned order in Na.Ka.No. 4479/2022/C, dated 22.06.2022 passed by the first respondent is hereby quashed.



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8. Accordingly, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petitions are closed.

06.07.2022

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

To

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



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V.SIVAGNANAM, J.

Nsr

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