



WEB COPY



CrI.O.P.(MD) No.12331of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)No.12331of 2022

and

CrI.M.P(MD) No.7801 of 2022

Maharajan

...Petitioner

.VS.

**1.The Executive Magistrate cum Deputy
Commissioner of Police
Law and Order (West)
Tirunelveli District**

**2. The Sub Inspector of Police
Thatchanallur Police Station
Tirunelveli District**

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the entire records of the proceedings initiated by the first Respondent in EMC No.11 of 2022 dated 15.03.2022 and quash the said proceedings as against the Petitioner.

**For Petitioner
For Respondents**

**: Mr.C.Vakeeswaran
: Mr.R. Meenakshi Sundaram
Additional Public Prosecutor**



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ORDER

This Criminal Original Petition has been filed to quash the proceedings initiated by the first Respondent in EMC No.11 of 2022 dated 15.03.2022.

2. The learned Counsel for the Petition invited the attention of this Court to the provisions of the Tamil Nadu Restriction of Habitual Offenders Act, 1948 and Section 110 of Cr.P.C. As per his submission in the summons itself it has been mentioned that out of three cases, one case ended in acquittal and there are two cases pending against him. As per the provisions of the Tamil Nadu Restriction of Habitual Offenders Act, 1948, the Petitioner ought to have convicted or suffered sentence or imprisonment on not less than three occasions. Whiles, issuance of summons based on the fact that the Petitioner is a habitual offender on the report of the second Respondent is in un sustainable under law. Further the learned Counsel for the Petitioner also relied on the earlier order passed by this Court in Crl.O.(MD) No.20725 of 2021 on the very same set of facts.

3. The learned Additional Public Prosecutor objected to the line of argument of the learned Counsel for the Petitioner stating that three criminal cases are



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pending against the Petitioner. Therefore for breach of peace in the society the first Respondent has sought enquiry directing the Petitioner to appear before him for obtaining bond from the Petitioner. The second Respondent had also opened History sheet against this Petitioner. Therefore this Petition is not maintainable and it is to be dismissed.

4. In the light of the submission of the learned Counsel for the Petitioner and in the light of the provisions of the Tamil Nadu Restriction of Habitual Offenders Act, 1948 and in the light of the order passed by the learned Single Judge of this Court, the order passed by the first Respondent is found unsustainable. The objection made by the learned Additional Public Prosecutor is rejected and this Criminal Original Petition is allowed and the proceedings initiated by the first Respondent in EMC No.11 of 2022 dated 15.03.2022 is hereby quashed. Consequently connected miscellaneous petition is closed.

26.10.2022

Index:Yes/No
Internet:Yes/No
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Commissioner of Police
Law and Order (West)
Tirunelveli District
2. The Sub Inspector of Police
Thatchanallur Police Station
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3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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