



CrI.O.P.(MD) No.12706 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.(MD) No.12706 of 2022

and

CrI.M.P.(MD).No.8043 of 2022

Karthik Sithan

...Petitioner

Vs.

1.The Administrative Executive Magistrate
and the Revenue Divisional Officer,
Thirumangalam.

2.The State,
Represented by,
The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.
(L.I.R.No.24 of 2022)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records pertaining to the proceedings in M.C.No.
2056 of 2022/A1 dated 13.06.2022 on the file of the first respondent and
quash the same.



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For Petitioners : Mr.S.Sivaprakash

For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.2056 of 2022/A1 dated 13.06.2022 on the file of the first respondent.

2. The learned counsel for the petitioner submitted that the petitioner is not a habitual offender and only one case has been registered against the petitioner in Crime No.147 of 2022 dated 21.04.2022. In the meanwhile, an impugned order dated 13.06.2022 came to be issued to the petitioner under Section 110 Cr.P.C under challenge is void, and the proceedings against the petitioner 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.



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3. The learned counsel for the petitioner further submitted that the first respondent, without following the mandatory provisions of Section 111 Cr.P.C, straight away issued the impugned order dated 13.06.2022 under Section 110 Cr.P.C., 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 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.

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

6. The impugned notice is ordered by the first respondent on 13.06.2022 under Section 110 Cr.P.C. On perusal of the impugned notice issued under Section 110, it is seen that the proceedings under Section 110 is instituted by a preliminary order under Section 111 Cr.P.C, which



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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”.*

7. 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 first respondent then pass final order. Unless the the first respondent 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.

8. In the instant case, the impugned summon dated 13.06.2022 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



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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.

9. Further, a perusal of the impugned notice, it is seen that the first respondent called the petitioner to appear certain enquiry on 22.06.2022. Now, the said date is over. Hence, the impugned proceedings is liable to be quashed.

10. Accordingly, this Criminal Original Petition is allowed. The impugned order dated 13.06.2022 on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petition is also closed.

18.07.2022

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



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V.SIVAGNANAM, J.

Nsr

To

- 1.The Administrative Executive Magistrate
and the Revenue Divisional Officer,
Thirumangalam.
- 2.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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