



Crl.O.P.(MD) No.13262 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.13262 of 2022

R.Gobinath,

: Petitioner

Vs

1. The Executive Magistrate Cum,
the Deputy Commissioner of Police (North),
Madurai City.

2. The Inspector of Police,
D1, Thallakulam Police Station (L and O),
Madurai City.

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the entire records pertaining to the proceedings in Na.Ka.No.174/Ni.Se.N and Ka.Thu.Aa/Ma.Maa/2022 pending on the file of 1st Respondent and quash the same as illegal.

For Petitioner : M/s.Aravind Raj R,
For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor



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ORDER

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This petition is filed to quash the summon in Na.Ka.No. 174/Ni.Se.N and Ka.Thu.Aa/Ma.Maa/2022 dated 13.07.2022, on the file of the first respondent under Section 109 and 111 Cr.P.C.

2.The learned counsel appearing for the petitioner submitted that the impugned summon dated 13.07.2022 under Section 109 Cr.P.C issued under Section 111 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. summon 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 summon.

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 contended that in the impugned summon, adequate information is given to the petitioner, it is enough to the person notified



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to defend himself against the allegations. When they had clear notice of the case against the petitioner, 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 summon is ordered by the Executive Magistrate Cum the Deputy Commissioner of Police (North) on 13.07.2022 under Section 111 Cr.P.C. On perusal of the impugned summon issued under Section 109 and 111 Cr.P.C, it is seen that the proceedings under Section 109 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



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6.The issue of summon under Section 111 Cr.P.C is judicial act, the object behind this summon 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 Executive Magistrate Cum the Deputy Commissioner of Police (North) then pass final order. Unless the Executive Magistrate Cum the Deputy Commissioner of Police (North) 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 summon dated 13.07.2022 mentioning only vague information about the complaint/information given by the Inspector of Police, substance of information received as required is incomplete. Thus, the summon 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



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proceeding would be quashed.

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8.Further, a perusal of the impugned summon, it is seen that the Executive Magistrate Cum the Deputy Commissioner of Police (North) called the petitioner to appear certain enquiry on 20.07.2022. 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 summon in Na.Ka.No.174/Ni.Se.N and Ka.Thu.Aa/Ma.Maa/2022 dated 13.07.2022 issued by the first respondent/Executive Magistrate Cum the Deputy Commissioner of Police (North) is hereby quashed.

22.07.2022

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

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1. The Executive Magistrate Cum,
the Deputy Commissioner of Police (North),
Madurai City.

2. The Inspector of Police,
D1, Thallakulam Police Station (L and O),
Madurai City.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



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V.SIVAGNANAM, J.

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