



CRL.O.P(MD) No.13944 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.08.2022

CORAM

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

CRL.O.P(MD) No.13944 of 2022

and

CrI.M.P(MD)Nos.8953 and 8954 of 2022

Esakkipandi

... Petitioner/Respondent

Vs.

1.The Executive Magistrate Cum
Assistant Commissioner of Police,
Law and Order (West),
Tirunelveli City,
Tirunelveli District.

...1st Respondent/Competent Authority

2.The Inspector of Police,
Thachanallur Police Station,
Tirunelveli City,
Tirunelveli District.

...2nd Respondent / Nil

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the impugned summon under Section 113 of Cr.P.C. in EMC(W)No.32/Sec/Pre/DC.West/Tin-c/2022, dated 20.04.2022 on the file of the first respondent and quash the same as illegal.



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For Petitioner : Mr.S.Gokul Raj
Advocate.
For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This petition is filed to quash the proceedings initiated by the first respondent in EMC(W)No.32/Sec/Pre/DC.West/Tin-c/2022, dated 20.04.2022 as against the petitioner under Section 113 of Cr.P.C.

2.The learned counsel appearing for the petitioners submitted that the impugned summon under Section 113 of Cr.P.C. served by the first respondent is not in consonance with Sections 110 and 111 of Cr.P.C. The first respondent have not served the copy of the order of the second respondent under Section 110 of Cr.P.C., dated 16.04.2022 as stipulated under Section 114 of Cr.P.C. He further submitted that the impugned summon issued by the first respondent is not in accordance with the provisions under Section 113 of Cr.P.C. and they have failed to state the substance of the information stipulated under Section 113 of Cr.P.C. Hence, the learned counsel pleaded to quash the impugned summons.



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3.The learned Additional Public Prosecutor appearing for the respondent submitted that this summons has been issued under Section 113 Cr.P.C, but before issuing that summons under Section 113 Cr.P.C, the Executive Magistrate has not issued any notice under Section 111 Cr.P.C. He further submitted that a copy of the order passed under Section 111 of Cr.P.C. was not served along with impugned order as required under Section 114 of Cr.P.C.

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

5.On perusal of impugned order, it is seen that the first respondent has issued impugned summon under Section 113 of Cr.P.C., calling upon the petitioner to appear before the first respondent for enquiry on 21.07.2022. According to the petitioner, no notice has been passed under Section 111 of Cr.P.C. A perusal of notice, it is clearly evidenced that no notice was passed by the first respondent, under Section 111 of Cr.P.C.



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8.Further, a perusal of the impugned notice, it is seen that the the Executive Magistrate Cum Assistant Commissioner of Police called the petitioner to appear certain enquiry on 21.07.2022. 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 dated 20.04.2022 on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petitions are also closed.

01.08.2022

Internet:Yes./No
Index:Yes/no
vsd



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To

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- 2.The Inspector of Police,
Thachanallur Police Station,
Tirunelveli City,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

vsd

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