



CrI.O.P.(MD) No.14714 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.(MD) No.14714 of 2022

and

CrI.M.P.(MD) No.9547 of 2022

Mohanlal,

: Petitioner

Vs

1. The IInd Class Executive Magistrate
Cum Thashildar,
Thiruvadanai Taluk,
Ramanathapuram District.

2. The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the entire records of the proceedings initiated by the
first respondent in M.C.No.150/2022 dated 04.08.2022 and quash the
said proceedings as against the petitioner.



CrI.O.P.(MD) No.14714 of 2022

For Petitioner : Mr. Karthikeyan C,

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

ORDER

This petition is filed to quash the summon in M.C.No.150/2022 dated 04.08.2022 on the file of the first respondent under Section 110 and 111 Cr.P.C.

2.The learned counsel appearing for the petitioner submitted that the impugned summon dated 04.08.2022 under Section 110 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.



Crl.O.P.(MD) No.14714 of 2022

WEB COPY

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 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 The IInd Class Executive Magistrate Cum Thashildar, on 04.08.2022 under Section 111 Cr.P.C. On perusal of the impugned summon issued under Section 110 and 111 Cr.P.C, it is seen that the proceedings under Section 110 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



CrI.O.P.(MD) No.14714 of 2022

(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

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 IInd Class Executive Magistrate Cum Thashildar then pass final order. Unless the IInd Class Executive Magistrate Cum Thashildar 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 04.08.2022 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



Crl.O.P.(MD) No.14714 of 2022

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.

8.Further, a perusal of the impugned summon, it is seen that the IInd Class Executive Magistrate Cum Thashildar, Ramanathapuram District called the petitioner to appear certain enquiry on 09.08.2022. 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 M.C.No.150/2022 dated 04.08.2022 issued by the first respondent/IInd Class Executive Magistrate Cum Thashildar is hereby quashed. Consequently, connected miscellaneous petition is closed.

17.08.2022

Internet:Yes
Index:Yes/No
lr



Crl.O.P.(MD) No.14714 of 2022

WEB COPY

- To
1. The IInd Class Executive Magistrate
Cum Thashildar,
Thiruvadanai Taluk,
Ramanathapuram District.
 2. The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



WEB COPY



CrI.O.P.(MD) No.14714 of 2022

V.SIVAGNANAM, J.

lr

CrI.O.P.(MD) No.14714 of 2022

17.08.2022