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Crl.O.P.(MD)No.11975 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.11975 of 2023

and

Crl.M.P.(MD) Nos.9450 and 9451 of 2023

Palani @ MSK.Palani

... Petitioner

Vs.

1.The Executive Magistrate and
Tahsildar,
Avudaiyarkovil Taluk,
Pudukkottai District.

2.The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukkottai City.

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings in Form No. 14 on the file of the first respondent herein dated 15.05.2023 and quash the same as illegal.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.B.Thanga Aravindh
Government Advocate Crl.Side)



ORDER

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This Criminal Original Petition is filed questioning the notice given under Section 113 of the Code of Criminal Procedure against the petitioner.

2.The learned counsel appearing for the petitioner would submit that the petitioner was served with a notice in Form 14 of the Code of Criminal Procedure directing him to appear before the learned Executive Magistrate on 05.06.2023 at 04.00 pm., and that Form-14 issued under Section 113 of the Code of Criminal Procedure does not contain any substance as to why the petitioner was asked to appear before the Executive Magistrate and execute the bond.

3.As per the scheme of the Code of Criminal Procedure, the Executive Magistrate is required to give notice under Section 111 of the Code of Criminal Procedure in Form No.14 explaining the substance of the information received by him through the police for initiating the proceedings. After receiving notice under Section 111 of the Code of Criminal Procedure, if the petitioner fails to appear, then notice under Section 113 of the Code of Criminal Procedure is required to be given and even in the notice under Section 113 Cr.P.C., also, substance of



information has to be stated. The notice received by the petitioner does not disclose any substance of information. Further, the notice under Section 111 Cr.P.C., has been by-passed and notice under Section 113 Cr.P.C., is directly given.

4.The petitioner has relied upon paragraph No.19 of the judgment of the Hon'ble Supreme Court in the case of ***M.Krishnamurthy and others Vs. Sub Divisional Magistrate cum Revenue Divisional Officer, Krishnagiri and another*** reported in (2017) 1 MLJ (Crl.) 257, which reads as under:-

*“19.In our view, a show cause order under [Section 107](#) r/w [111](#) can be subjected to judicial review under [Section 482](#) Cr.P.C. or [Article 226](#) of the Constitution of India, if on the face of it, the order does not satisfy the minimum requirements of [Section 111](#) or that the same has been passed by a person who is not an Executive Magistrate and not otherwise. In other words, if the order does not contain the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required, only then, can the High Court interfere and not otherwise. Factual adjudication of the satisfaction expressed by the Magistrate is ruled out in view of the decision of the Supreme Court in *Union of India V. Vicco Laboratories (supra)*.”*



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5.Considering the circumstances, this Criminal Original Petition is allowed. The impugned notice issued in Form-14 under Section 113 of Cr.P.C dated 15.05.2023 asking the petitioner to appear on 05.06.2023 at 04.00 pm., is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/No
Internet : Yes/No
mm

03.07.2023

To

- 1.The Executive Magistrate and
Tahsildar,
Avudaiyarkovil Taluk,
Pudukkottai District.
- 2.The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukkottai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN. J.

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