



Crl.O.P.(MD)No.12474 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.12474 of 2023

and

Crl.M.P.(MD) Nos.9767 and 9768 of 2023

Eswaran

... Petitioner

Vs.

1. The State rep. by,
The Second Class Executive Magistrate cum
Revenue Tahsildar,
Sankarankovil,
Tenkasi District.

2. The Inspector of Police,
Sankarankovil Taluk Police Station,
Tenkasi District.
Cr.No.69 of 2023

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records in A1.M.C.82/2023 (107) on the file of the first respondent/Second Class Executive Magistrate cum Revenue Tahsildar, Sankarankovil, Tenkasi District and quash the same as against the petitioner herein.

For Petitioner : Mr.J.Senthil Kumar

For R1 & R2 : Mr.E.Antony Shaya Prabahar
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition is filed challenging the summons dated 26.06.2023 issued to the petitioner under Section 111 of the Code of Criminal Procedure, alleging that the summons issued are vague, do not contain substantive satisfaction of the first respondent / Second Class Executive Magistrate-cum- Revenue Tahsildar and sought for quashment of the same.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.69 of 2023 on the file of the second respondent/Inspector of Police, Sankarankovil Taluk, for the offences punishable under Sections 294(b), 323, 324 and 506(1) of IPC and the same is pending.

3. The second respondent/Inspector of Police, Sankarankovil Taluk Police Station, has requested the first respondent / Second Class Executive Magistrate-cum- Revenue Tahsildar to initiate proceedings against the petitioner alleging that the petitioner has been acting in



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breach of public tranquillity affecting the law and order. The first respondent thereby issued the impugned summons dated 26.06.2023 under Section 111 of Cr.P.C. asking him as to why action shall not be initiated against the petitioner under Section 107 of Cr.P.C.

4. Section 111 of Cr.P.C. reads as under:-

"111. Order to be made.—When a Magistrate acting under section 107, section 108, section 109 or section 110, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth 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."

5. On going through the above provisions, it is clear that the issuance of summons under Section 111 of Cr.P.C. depends upon the initiation of proceedings either under Section 107 or Section 108 or Section 109 and Section 110. When the Executive Magistrate gets an information that any person likely to commit any breach peace thereby the proceedings Under section 107 of Cr.P.C., can be initiated. If the



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Executive Magistrate receives information that within his jurisdiction, if any person intentionally disseminates or attempts to disseminate or abets to disseminate any matter publicly of which is punishable under Sections 124-A, 153-B, 295-A of IPC or any other thing as mentioned in Section 108 of Cr.P.C., he can initiate proceedings under Section 108 of Cr.P.C. Similarly, if the Executive Magistrate is of the opinion basing on information that any person is likely to commit cognizable offence, proceedings under Section 109 of Cr.P.C. can be initiated. Finally, Section 110 of Cr.P.C. speaks, if the Executive Magistrate within the jurisdiction receives information that a person has committed various offences as enumerated from Clause (a) to Clause (g), then the proceedings can be initiated.

6. As per the impugned summons issued to the petitioner under Section 111 of Cr.P.C., the Executive Magistrate is of the opinion that the petitioner is likely to commit a breach of public tranquillity affecting law and order that means, the summons issued are Section 111 of Cr.P.C. r/w. Section 107 of Cr.P.C. In order to issue summons under Section 111 of Cr.P.C., the Executive Magistrate is expected to satisfy himself that a



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person is likely to commit a breach of peace or disturb the public tranquillity or any such thing as mentioned in Section 107 of Cr.P.C.

Issuing of summons by the Executive Magistrate is not a mechanical and Executive Magistrate is not bound by request of police once he receives information from the place, he has to analyse the information, decide objectively by exercising the discretion judiciously after recording the satisfaction that there are reasonable grounds to issue summons.

7. As seen from the impugned summons, as per the information received, the first respondent came to know that there is a possibility of affecting law and order situation by the petitioner. In fact, it is the case of the petitioner that a case has been registered against him in Crime No.69 of 2023 under Sections 294(b), 323, 324 and 506(1) of IPC. The petitioner has also filed a copy of the FIR. If at all the learned Executive Magistrate is of the opinion that on account of the petitioner involving in the offence in Crime No.69 of 2023, if there is a possibility of breach of peace and tranquillity in the society, then the first respondent/Executive Magistrate is expected to mention in unequivocal terms in the impugned summons stating that since the petitioner is involved in Crime No.69 of



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2023, there is likely to breach of public peace and tranquillity. Executive Magistrate has not recorded on what basis he has concluded that the petitioner is likely to breach public peace and tranquillity. Accordingly, the impugned summons shall not sustain.

8. Considering the above, the proceedings in A1.M.C.82/2023 dated 26.06.2023, issued by the learned Second Class Executive Magistrate-Cum-Revenue Tahsildar/first respondent are without any basis and therefore, required to be quashed. Accordingly, this Criminal Original Petition is allowed and the summons issued by the learned Second Class Executive Magistrate-Cum-Tahsildar/first respondent is quashed. Consequently, connected criminal miscellaneous petitions are closed.

28.07.2023

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
PKN		



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To

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1. The Second Class Executive Magistrate cum
Revenue Tahsildar,
Sankarankovil,
Tenkasi District.
2. The Inspector of Police,
Sankarankovil Taluk Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN,J

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