



Crl.O.P.(MD) No.14530 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.08.2023**

CORAM:

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

Crl.O.P.(MD) No.14530 of 2023

and

Crl.M.P.(MD) Nos.11432 and 11434 of 2023

Stalin

... Petitioner

Vs.

1.The II Class Executive Magistrate cum
The Tahsildar,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police (Law and Order),
G6, Parthibanoor Police Station,
Ramanathapuram District.

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertains to M.C.No.46 of 2023 dated 18.07.2023 on the file of the 1st respondent and quash the same.

For Petitioner	:Mr.C.Senthil Murugan
For Respondent	:Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor



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ORDER

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure questioning the summons dated 18.07.2023 issued by the respondent No.1 asking the petitioner to appear before the respondent No.1 on 25.07.2023 for enquiry.

2.According to the petitioner, the allegation mentioned in the summons that the petitioner has been continuously breaching the public peace and tranquility without any basis, thereby sought for quashing of the summons dated 18.07.2023, wherein the petitioner was directed to appear before the respondent No.1 on 25.01.2023 and execute a bond.

3.The summons issued to the petitioner under Section 110 of Cr.P.C. discloses that the Inspector of Police/second respondent has informed the Executive Magistrate/first respondent that there is a breach in law and order situation, thereby directed the petitioner to appear for enquiry on 25.07.2023.



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4.Learned Additional Public Prosecutor has fairly conceded that there is no proper record placed before the learned Executive Magistrate/first respondent by the Inspector of Police enabling the Executive Magistrate to issue the summons under Section 110 of Cr.P.C.

5.Heard the learned counsel on either side and perused the records.

6.On going through the summons dated 18.07.2023 issued by the respondent No.1 in M.C.No.46 of 2023, it is clear that the petitioner stated to be indulged in activities disturbing the peace in the area and to control the same, LIR No.32 of 2023 dated 07.07.2023 has been given, thereby action is being initiated under 110 Cr.P.C.,

7.The respondent No.1 has not mentioned as to what was the information received by him and how he has satisfied with the information to conclude that the petitioner indulged in activities of disturbing the public peace and tranquility. Further, there is no mention as to for what amount the bond has to be executed, how many sureties are required claim of sureties. Learned Executive



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Magistrate/first respondent has to satisfy himself prior to ordering a notice that the petitioner is likely to commit breach of peace in his territorial jurisdiction. The basic requirements to invoke Section 110 of Cr.P.C. are missing in the notice as the details as to how the petitioner is likely to breach the peace have not been mentioned.

8.The respondent No.1/the Executive Magistrate has issued the summons under 110 Cr.P.C. The contents of the summons would go to show that the summon given is not under 110 Cr.P.C., but under 107 Cr.P.C. On perusal of the impugned summons dated 18.07.2023, it is mentioned that the petitioner is indulging in activities, thereby the peace is disturbed in the said area, which clearly attracts 107 Cr.P.C., Whenever a person disturbing the peace and tranquility, a notice will be given under 107 Cr.P.C., Therefore, if the facts as per the summons are taken into consideration, the respondent No.1 should have issued summons under 107 Cr.P.C. 110 Cr.P.C., would go to show that the petitioner is involved in repeated crimes and is a habitual offender, then he can be asked to executed a bond. Therefore, the respondent No.1 though mentioned 110 Cr.P.C., the contents of summons would go to show that the respondent No.1



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intended to give summons under 107 Cr.P.C., However, the summons neither justify the grounds to give notice either under 107 Cr.P.C., or 110 Cr.P.C.,

9.In view of the above, the summons dated 18.07.2023 issued by learned II Class Executive Magistrate-Cum-Tahsildar/first respondent are not meeting the requirements of 110 Cr.P.C., and therefore, required to be quashed.

10.Accordingly, this Criminal Original Petition is allowed and the summons issued by the learned II Class Executive Magistrate-Cum-Tahsildar/first respondent dated 18.07.2023 is quashed. Consequently, connected criminal miscellaneous petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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21.08.2023

To

1.The II Class Executive Magistrate cum
The Tahsildar,
Paramakudi,
Ramanathapuram District.

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- 2.The Inspector of Police (Law and Order),
G6, Parthibanoor Police Station,
Ramanathapuram 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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