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**Crl.O.P.(MD)No.19587 of 2022**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 22.11.2022**

**PRONOUNCED ON : 30.06.2023**

**CORAM**

**THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

**CRL.O.P(MD)No.19587 of 2022**

**and**

**Crl.M.P.(MD)No.13401 of 2022**

**Ramachandran : Petitioner**

**-VS-**

**1.The Second Class Executive Magistrate,  
Radhapuram,  
Tirunelveli District.**

**2.The Inspector of Police,  
Vallioor Police Station,  
Tirunelveli District. : Respondents**

**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for entire records relating to the impugned proceedings of the first Respondent Aa2/M.C.No.133 of 2022, dated 24.08.2022 and to quash the same.

**For Petitioner : Mr.M.S.Jeyakarthik**



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For Respondents : Mr.B.Nambiselvan  
Additional Public Prosecutor

### **ORDER**

This Criminal Original Petition had been filed to quash the proceedings of the first Respondent/Executive Magistrate/Tahsildar, Radhapuram in Aa2/M.C.No.133 of 2022, dated 24.08.2022.

2.It is the contention of the learned Counsel for the Petitioner that the Petitioner had been a law abiding citizen. He is the only bread winner of his family. Based on the report of the second Respondent, the first Respondent/Executive Magistrate/Tahsildar, Radhapuram, Tirunelveli District, had issued summons to appear before him on 12.09.2022 at about 10.00 a.m. The summons had been issued without following the due procedures. It does not fulfill the ingredients of Section 113 of Cr.P.C. Without initiating any proceedings under Section 113 of Cr.P.C., the first Respondent/Executive Magistrate Magistrate had exercised discretion under Section 113 of Cr.P.C. Therefore, the same is not maintainable as it has not followed the due procedures.



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3.The summons does not mention the ingredients of the report of the second Respondent. Therefore, it is only an abuse of process of law. The learned Counsel for the Petitioner invited the attention of this Court to provisions of Sections 107 to 113 of Cr.P.C.

4.Mr.B.Nambiselvan, learned Additional Public Prosecutor submitted that this Petition itself is not maintainable as the Petitioner is a History Sheeter wanted in several cases. He is facing 39 cases. Hence, he prayed this Court to dismiss this Criminal Original Petition.

5.Point for consideration:

***Whether the proceedings issued to the Petitioner by the first Respondent in Aa2/M.C.No.133 of 2022, dated 24.08.2022 is to be quashed?***

6.On consideration of the rival submissions of the learned Counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondents and on perusal of the summon issued by the first Respondent



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to the Petitioner in Aa2/M.C.No.133 of 2022, dated 24.08.2022, the same does not contain the details of the cases in which the Petitioner is involved, without which, the summon issued to the Petitioner is found to be vague. Therefore, the contention of the learned Counsel for the Petitioner that the summon issued to the Petitioner was only to cause harassment to the Petitioner, is to be accepted. The first Respondent had not followed the procedures under Sections 107 to 113 of Cr.P.C. Therefore, the contention of the learned Additional Public Prosecutor that there are 39 cases pending against the Petitioner alone will not help the Respondents.

7.In the light of the above discussion, the point for consideration is answered in favour of the Petitioner and against the Respondents. The summon issued by the first Respondent to the Petitioner in Aa2/M.C.No.133 of 2022, dated 24.08.2022 is to be quashed for the present as it is bereft of details. Even though the summon is quashed the first Respondent is within his discretion to issue fresh summon with full particulars so that the procedures under Sections 107 to 113 Cr.P.C. are properly followed. The first Respondent is granted liberty to proceed accordingly by issuing fresh summon to the Petitioner.



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In the result, **this Criminal Original Petition is allowed.** The summon issued to the Petitioner in Aa2/M.C.No.133 of 2022, dated 24.08.2022 is quashed. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No  
Internet : Yes/No  
SRM

30.06.2023

To

- 1.The Second Class Executive Magistrate,  
Radhapuram,  
Tirunelveli District.
- 2.The Inspector of Police,  
Vallioor Police Station,  
Tirunelveli District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of the Madras High Court,  
Madurai.



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**SATHI KUMAR SUKUMARA KURUP, J.**

SRM

Order made in  
**CRL.O.P(MD)No.19587 of 2022**

**30.06.2023**