



*Crl.O.P.(MD)No.19558 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2025

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**THE HON'BLE MR.JUSTICE P.DHANABAL**

Crl.O.P.(MD)No.19558 of 2024

Satheeshkumar

.. Petitioner

Vs.

1. The Second Class Executive Magistrate Cum  
The Tahsildhar  
Ramanathapuram Taluk  
Ramanathapuram District

2. The Inspector of Police  
Ramanathapuram Town Police Station  
Ramanathapuram District

.. Respondents

**PRAYER :** Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the proceedings in M.C.No.A3/477/6250/2024 dated 07.10.2024 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.B.Mahendrarajan

For Respondents : Mr.M.Sakthi Kumar  
Government Advocate(Crl.Side)



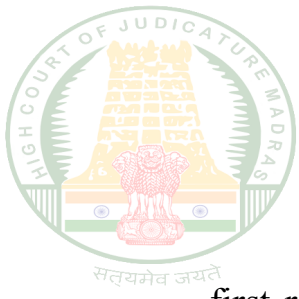
Crl.O.P.(MD)No.19558 of 2024

## **ORDER**

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This Criminal Original Petition has been filed to quash the proceedings in M.C.No.A3/ 477/6250/2024 dated 07.10.2024 on the file of the first respondent .

2. The learned counsel appearing for the petitioner would submit that the petitioner received summons under Section 113 of Cr.P.C., dated 07.10.2024 from the first respondent directing him to appear for enquiry on 15.10.2024 against the report filed by the police that he is likely to commit breach of peace or disturb the public tranquillity. The said report was filed against him with *malafide* intention and the petitioner is not a habitual offender and there is no any previous antecedents against the petitioner. The petitioner is not involved in any illegal activities. Further the impugned order under Section 113 of Cr.P.C and its proceedings against the petitioner is nullity and without any jurisdiction as substance of information as received is incomplete and ambiguous. Therefore there is failure to comply with the mandatory requirements of Section 111 of Cr.P.C., therefore the notice issued by the first respondent is liable to be quashed.



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3. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that the first respondent issued summons under Sections 113 of Cr.P.C., for keeping peace based on the information given by the Ramanathapuram Town Police Station. Therefore the first respondent issued notice to the petitioner to maintain peace and to execute bond, therefore the order passed by the first respondent is in accordance with law and there is no any illegality, hence the present petition is liable to be dismissed.

4. Heard both sides and perused the materials available on record.

5. The petitioner has challenged the summons issued by the first respondent under Section 113 of Cr.P.C., In the summons there is no substance of information received. As per Section 113 of Cr.P.C if such person is not present in Court, the Magistrate shall issue summons requiring him to appear, or, when such person is in custody, a warrant, directing the officer in whose custody he is to bring him before the Court.

6. The learned counsel appearing for the petitioner relied on the following judgements:



*Crl.O.P.(MD)No.19558 of 2024*

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a) M.Krishnamurthy and others .vs. The Sub Divisional Magistrate cum Revenue Divisionsal Officer, Krishnagiri in Crl.O.P No.17684 of 2015

b)L.Ravikumar .vs. The Inspector of Police, Thirumangalam Town Police Station Madurai District in Crl.O.P(MD)No. 12717 of 2022.

7. On careful perusal of the above said judgments it is clear that under Section 111 Cr.P.C, it is self evident that the order is a show cause notice calling upon the persons stated therein to show case as to why they should not be bound over. Order under Section 111 Cr.P.C.,merely mandates the Executive Magistrate to give the substance of information that had led him to form an opinion to initiate proceedings under Section 107 of Cr.P.C., The section also does not contemplate that the Magistrate should record his opinion or give reasons for initiating proceedings. This is so because Section 107r/w.111 is not the be all and end all of the proceedings. The substance means the essence of the most important parts of the information but in the case on hand no substance mentioned in the summons.



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8. On perusal of the impugned summon it is seen that it does not contain any basic ingredients as required under Section 111 of Cr.P.C. At this juncture, it is relevant to extract the provisions under Section 111 of Cr.P.C, which reads as follows:

***“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”*

9. The first respondent ought to have passed the impugned order containing the substance of information received, the amount of bond to be executed, the terms for which it is to be in force and the number, character and class of sureties which it is to be in force. In this case, on receipt of information from the second respondent, the first respondent mechanically issued the impugned summons without application of mind and it is totally contrary under Section 111 of Cr.P.C., that too without any particulars and simply in two lines the order has been passed to appear



*Crl.O.P.(MD)No.19558 of 2024*

before him, therefore the order passed by the first respondent is liable to be quashed. More over the order was passed on 07.10.2024, but summons under Section 113 was without mentioning the act. The respondent ought to have issued summons under the BNSS, since it came into force on 01.07.2024 therefore the first respondent has not applied his mind and simply issued summons.

10. Accordingly the Criminal Original Petition stands allowed and the order passed by the first respondent in M.C.No.A3/ 477/6250/2024 dated 07.10.2024 is hereby quashed.

**12.02.2025**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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To

1. The Second Class Executive Magistrate Cum  
The Tahsildhar  
Ramanathapuram Taluk  
Ramanathapuram District
2. The Inspector of Police  
Ramanathapuram Town Police Station  
Ramanathapuram District
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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*Crl.O.P.(MD)No.19558 of 2024*

**P.DHANABAL,J.**

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Crl.O.P.(MD)No.19558 of 2024

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