

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Original Petition No.18568 of 2015
and M.P.No.1 of 2015

Balvinder Singh

...Petitioner/Accused-3

vs.

Union of India
rep. By Superintendent of Police
Economic Offences Wing, CBI
3rd floor, Rajaji Nagar
Besant Nagar, Chennai

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to quash the summons dated 18.07.2015 issued by the
respondent.

For petitioner : Mr.B.Kumar, Senior Counsel
for Mr.K.P.Anantha Krishna

For respondent : Mr.K.Srinivasan, Spl.Public Prosecutor.

JUDGMENT

This Criminal Original Petition has been directed against the
summons issued under Sections 91 and 160 of the Criminal Procedure
Code, 1973 against the present petitioner, who has been arrayed as 3rd
accused in RC.No.10/(E)/2014 of CBI/EOW/Chennai.

2. The learned counsel appearing for the petitioner contended
that by invoking Section 91 of the said Code, the respondent has no
power to issue the summons in question and under the said
circumstances, the same is liable to be quashed. In support of the
contention raised on the side of the petitioner, the decision
reported in 2008 CrI.L.J.3167 [H.Mohamed Ibrahim Kaleel and Ors., Vs.
State and Another] is relied upon, wherein, this Court has had an
occasion to decide a similar issue and ultimately found that section
91 of the Criminal Procedure Code, 1973 cannot be exercised against
the accused.

3. In the instant case, the present petitioner has been arrayed as 3rd accused in RC.No.10/(E)/2014 of CBI/EOW/Chennai.

4. Considering the aforesaid factual aspects, this Court is of the view that the summons issued by the respondent is totally illegal and the same is liable to be quashed.

In fine, this Criminal Original Petition is allowed and the summons in question issued by the respondent is quashed. However, the respondent is at liberty to invoke Section 93 of the Criminal Procedure Code, 1973. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nvsri

To :

The Superintendent of Police
Economic Offences Wing, CBI
3rd floor, Rajaji Nagar,
Besant Nagar, Chennai

+ 1 cc to Mr.J. Jawahar, Advocate Sr.53915
+ 1 cc to Mr.K. Srinivasan, Advocate SR.53127

KGK(CO)
EU 09.10.15

CrI.O.P.No.18568 of 2015

सत्यमेव जयते

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