

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Crl.O.P.No.939 of 2015

P.Balakrishnan

...Petitioner

vs.

1. The Deputy Superintendent of Police,
District Crime Branch, Salem.

2. S.Sivaram Reddy

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for records relating to the proceeding in Na.ka.No.511/DCB/SLM/2014, dated 23.12.2014, issued by the first respondent and to set aside the same.

For Petitioner : Mr.M.S.Krishnan, Senior Counsel
for Mr.R.Thiagarajan

For Respondent-1 : Mr.M.Maharaja
Additional Public Prosecutor

For Respondent-2 : Mr.V.G.Anbarasu

O R D E R

This Petition has been filed, to set aside the proceeding, viz., the summon, dated 23.12.2014, issued by the first respondent to the petitioner.

2. Mr.M.S.Krishnan, the learned Senior Counsel for the petitioner assailed the summons issued to the petitioner on two grounds. Firstly by contending that, under Section 160 (i) of the Code of Criminal Procedure, a person can be summoned, only if any crime has been registered against him, and without registering the

case, he cannot be summoned by the Police. To buttress the said contention, the learned Senior Counsel placed reliance on the judgment reported in (2004) 1 C.T.C. 130 in re (Prakash Transports 100 Mosikiranar Street, Indira Nagar, Erode Vs. The Inspector of Police, Central Crime Branch). Secondly, the learned Senior Counsel contended that, though, as per Section 91 Cr.P.C., a person can be summoned by the Police to produce documents, the summon must mention the nature of documents to be produced by the person, and in this case, in the summon issued to the petitioner, the first respondent/Police did not even mention the details of documents to be produced by the petitioner. The learned Senior Counsel lastly submitted that, even on 21.12.2013, the petitioner appeared before the Inspector of Police, Salem and given statement, and without registering case against the petitioner, and without informing the documents to be produced by the petitioner, summon was issued to him, Hence, the learned Senior Counsel submitted that the summon is liable to be set aside.

3. The learned Additional Public Prosecutor for the first respondent submitted that, though, as per the judgment relied upon the learned Senior Counsel for the petitioner, without registering a crime against the person, he cannot be asked to appear for enquiry by issuing summon, having regard to the provisions of Section 91, person can be asked to produce documents. In this case, due to inadvertence, the first respondent/Police has not mentioned the details of documents to be produced by the petitioner. Hence, learned Additional Public Prosecutor submitted that the first respondent may be given liberty to issue fresh summons, mentioning the details of documents to be produced by the petitioner.

4. Heard the learned Senior Counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent. As rightly pointed out by the learned Senior Counsel for the petitioner, no crime has been registered against the petitioner, hence, the first respondent/Police has no jurisdiction to issue summon. As regards the second contention, it is seen that, in the summon issued to the petitioner, nothing has been stated regarding the documents to be produced by the petitioner. Hence, I am of the firm opinion that the summons issued to the petitioner is liable to be set aside.

5. Accordingly, this Criminal Original Petition is allowed, the summon issued to the petitioner, dated 23.12.2014 is set aside

and the liberty is given to the first respondent/Police to issue fresh summon to the petitioner, by mentioning the details of documents to be produced by the petitioner.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sd

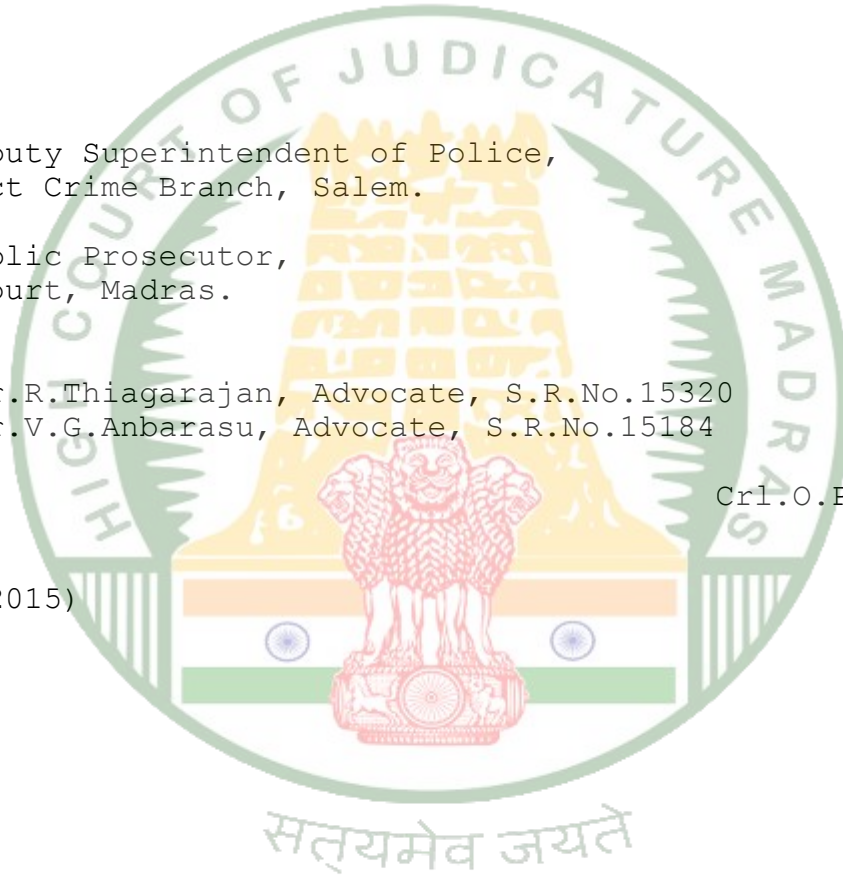
To

1. The Deputy Superintendent of Police,
District Crime Branch, Salem.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thiagarajan, Advocate, S.R.No.15320
+1cc to Mr.V.G.Anbarasu, Advocate, S.R.No.15184

Cr1.O.P.No.939 of 2015

VGI (CO)
CA(01/04/2015)



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