

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.07.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

W.P.No.25376 of 2016
and WMP No.21678 of 2016

N.A.Mohideen Gafoor

... Petitioner

Vs

1.The Sub Inspector of Police,
B-3, Kanchi Taluk Police Station,
Kanchipuram.

2.The Assistant Superintendent of Police,
Kanchipuram Sub Division,
Kanchipuram District.

3.The Superintendent of Police,
Kanchipuram District,
Kanchipuram.

4.C.Saroja

5.S.K.Mani

6.M.Devaki

7.C.Pandurangan

8.Minor P.Shalini
rep.by father C.Pandurangan

9.P.Sumathi

10.C.Sundar

11.C.Gnanasekar

12.Minor R.G.Uvan

rep.by father C.Gnanasekar

13.Minor G.Kavia

rep.by father C.Gnanasekar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus, to call for the records pertaining to the summon Nil dated under Sections 160 and 91 CrPC issued by the 1st respondent, quash the same and consequently, direct the 1st respondent not to harass the petitioner.

For Petitioner : Mr.V.Purushothaman
For Respondents 1 to 3 : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This Writ Petition has been filed praying to quash the summon dated Nil under Sections 160 and 91 CrPC issued by the 1st respondent and to direct the 1st respondent not to harass the petitioner.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the respondents 1 to 3 and perused the materials placed on record.

3. On the complaint given by one Manavalan, the respondent Police have registered a case in Crime No.567 of 2016 on 22.06.2016 for offences under Section 447, 427, 294[b] and 387 IPC against one Murugan and others. During the course of investigation, the Police have sent a summon under Section 160 and 91 Cr.P.C. to the petitioner herein, which does not contain the date on which, the petitioner has to appear before the Investigating Officer. Challenging the summon, the petitioner is before this Court.

4. Mr.Sunil Kumar, learned counsel for the petitioner submitted that the petitioner had purchased the property from R4 to R13. It is the contention of the learned counsel that the petitioner is neither accused nor complainant. He further submitted that he has already appeared before the respondent Police for enquiry.

5. In the considered opinion of this Court, a writ as prayed for cannot be issued, inasmuch as, the Police have a duty under Chapter XII of Cr.P.C., when an FIR is registered and they have also have the power under Section 160 Cr.P.C. to summon any person. Therefore, the petitioner cannot be exempted from appearing before the 1st respondent Police, pursuant to summons.

6. In this case, the impugned summons does not even disclose the date on which, the petitioner should appear and it shows non application of mind. Therefore, the petitioner can ignore the summon and need not appear before the 1st respondent Police. However, liberty is issued to the 1st respondent Police to issue fresh summons, in advance giving the date and time for appearance of the petitioner and on such summon being issued, the petitioner shall appear before the 1st respondent Police and during enquiry, he shall not be harassed.

With the above direction, this petition is closed. Consequently, connected Miscellaneous Petition is closed. No costs.

gya

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1.The Sub Inspector of Police,
B-3, Kanchi Taluk Police Station,
Kanchipuram.

2.The Assistant Superintendent of Police,
Kanchipuram Sub Division,
Kanchipuram District.

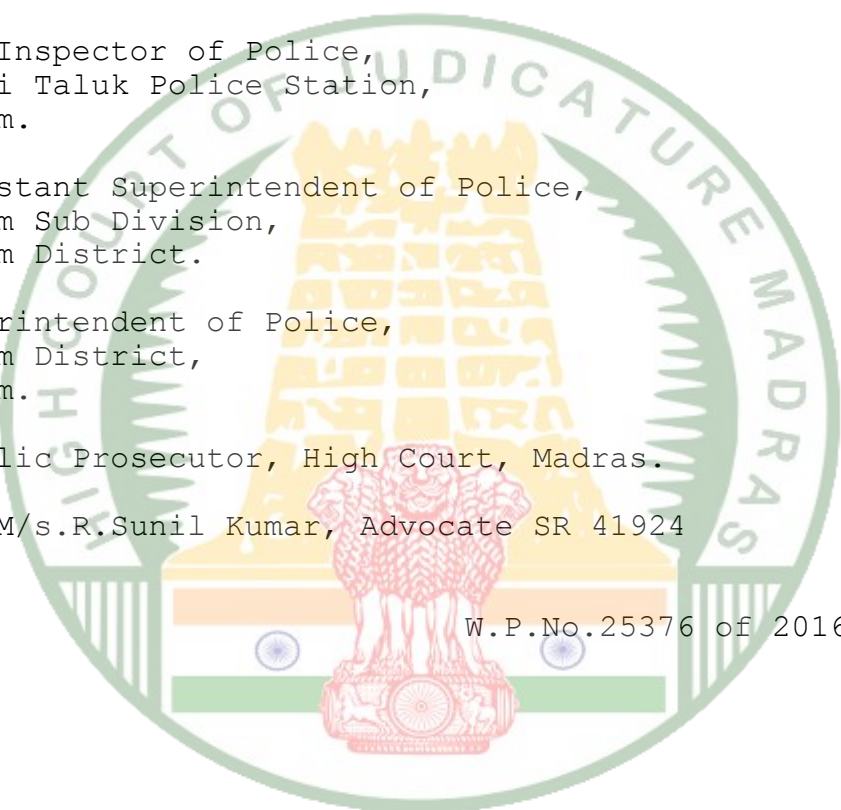
3.The Superintendent of Police,
Kanchipuram District,
Kanchipuram.

4. The Public Prosecutor, High Court, Madras.

+ 1 cc to M/s.R.Sunil Kumar, Advocate SR 41924

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W.P.No.25376 of 2016

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The gopuram is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the central image. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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