



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) Nos.12229 and 12230 of 2015

The Staffs Muthoot Fincorp Ltd.,
Usilampatti Branch
Madurai District
Rep. by their Senior Area Manager
and Authorised Signatory
M.Raju

... Petitioner in
Crl.O.P.No.12229/2015

The Proprietor
Muthoot Fincorp Ltd
Usilampatti Branch
Usilampatti
Madurai District
(As shown in the summons, there is no
Proprietor for the Muthoot Fincorp Ltd
Usilampatti Branch, Usilampatti)

The Area Manager and
Authorised Signatory
Muthoot Fincorp Ltd
Usilampatti Branch
Rep. by M.Raju

... Petitioner
Crl.O.P.(MD) No.12230/2015

-vs-

The Sub Inspector of Police,
Usilampatti Town Police Station,
Usilampatti
Madurai District.
Crime No.328 of 2014

... Respondent in
both petitions

Common Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in Summons dated 13.11.2014 issued by the learned Judicial Magistrate, No.I, Usilampatti under Form 91(2) and Section 94 of Criminal Procedure Code, to quash the same as illegal.

For Petitioners : Mr.P.Pethurajesh
For Respondents : Mrs.S.Prabha for R1
Govt. Advocate (Crl.Side)
Mr.R.Maheswaran
for impleading petitioner
Mr.V.Ganesh
for impleading petitioner

**ORDER**

This petition has been filed to direct the respondent to quash the summons dated 13.11.2014 issued by the learned Judicial Magistrate, No.I, Usilampatti under Form 91(2) and Section 94 of Criminal Procedure Code.

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2. Heard the learned counsel for the petitioner, the learned Government Advocate (Crl. Side) for the respondent and the learned counsels for the impleading petitioner.

3. Admittedly, the petitioners are accused in Crime No.328 of 2014, that has been registered by the respondent police on 18.10.2014 for offences under Sections 406, 420 IPC on the complaint given by one Chinnaraja. During the course of investigation, the respondent police have issued summons under Sections 91 Cr.P.C. to the petitioners herein for production of certain documents in their custody.

4. In the considered opinion of this Court, in view of the Constitution Bench judgment of this Court, in **State of Gujarat v. Shyamlal** reported in **AIR 1965 SC 1251**, Section 94 (presently 91) Cr.P.C. cannot be invoked as against the accused. On the short point, these petitions are allowed and the summons are quashed. However, that cannot prevent the police officers from taking steps in accordance with law for searching and seizing the documents that are required for investigation. The respondent police is directed to proceed in accordance with law. Consequently, M.P.Nos.2 and 2 of 2015 and Crl.M.P.No.2968 of 2016 and 2969 of 2016 are dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, No.I, Usilampatti
2. The Sub Inspector of Police,
Usilampatti Town Police Station,
Usilampatti, Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO M/S.P.PETHU RAJESH, ADVOCATE IN SR NO. 20551/16

+ 1 CC TO M/S.MAGESHWARAN, ADVOCATE IN SR NO. 20857/16

RR

TE/SKS-RR/ : 20/04/2016 : 2P/6C