

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2018

CORAM

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

Crl.O.P. No.11055 of 2018
and
Crl.M.P.No.5684 of 2018

V.Krishnamurthy ...Petitioner

vs.

1. The State of Tamilnadu, rep. by
Superintendent of Police,
Kancheepuram.
2. The State of Tamilnadu, rep. by
Sub Inspector of Police,
District Crime Branch,
District Police Office,
Kancheepuram.
3. Mr.BalakrishnanRespondents

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records pertaining to Letter bearing No. Nil dated 17.02.2018 and the consequent Summons U/s 160 & 91 Cr.P.C., dated Nil, (requiring appearance on 31.03.2018) on the file of the second respondent and quash the same.

For petitioner : Mr.R.Selva Kumar
For R1 & R2 : Mrs.Kritika Kamal.P
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed seeking to call for the records pertaining to Letter bearing No. Nil dated 17.02.2018 and the consequent Summons U/s 160 & 91 Cr.P.C., dated Nil, (requiring appearance on 31.03.2018) on the file of the second respondent.

2. It appears that on the complaint given by one Balakrishnan, the respondent police is conducting a preliminary enquiry and have issued summons to the petitioner to appear before them for giving certain clarification. Challenging the said summons, this quash petition is filed.

3. The learned counsel for the petitioner submitted that the transaction is purely civil in nature and therefore, the police ought not to have issued summons at all. He also contended that a suit is pending between the parties and that the petitioner has sent written explanation to the police and therefore, the police should have accepted the same and not issued summons.

4. I am unable to persuade myself to agree with the submission for the simple reason that in Lalita Kumari vs. Govt. of U.P. & others [(2014) 4 SCC 1], the Supreme Court has stated that the police can conduct some preliminary enquiry before registering an F.I.R., in order to find out the bona fide nature of the complaint. Therefore the police has issued summons to the petitioner to appear before them and submit the documents. However, if this summon is quashed, then the police may not be able to effectively complete the enquiry and file a closure report, if it is found that the transaction is civil in nature. Hence, this petition is closed, with a direction to the petitioner to appear before the respondent police and submit necessary documents. The respondent police is directed to conduct an enquiry and take action in accordance with law, within a period of three months from the date of appearance of the petitioner before the police. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy
Sub-Assistant Registrar

dh / mk
To

1. The Superintendent of Police,
Kancheepuram.
 2. The Sub Inspector of Police,
District Crime Branch,
District Police Office,
Kancheepuram.
 3. The Public Prosecutor,
High Court, Madras.
- +1 Cc to Mr.R. Selvakumar, Advocate sr 26193.

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SP(23/04/2018)