



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.15505 of 2016

and

CRL.M.P. (MD) No.7348 of 2016

A.Selva Kumar ... Petitioner/Aggrieved person

-Vs-

1.The State represented by
The Superintendent of Police,
Tirunelveli District, Tirunelveli.

2.The Deputy Superintendent of Police,
Tenkasi Sub-Division, Tirunelveli District.

3.The Inspector of Police,
All Women Police Station, Tenkasi,
Tirunelveli District.

4.The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

... Respondents/Respondents

5.Buveneswari ... Respondent/Complainant

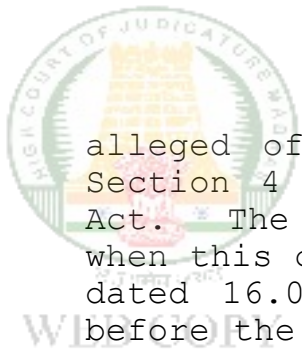
Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to set aside the summon issued by the 4th respondent vide Tenkasi Police station C.S.R. No.506 of 2016.

For Petitioner : Mr.P.Saravanan
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner questioning the summon issued by the 4th respondent based on the complaint given by the defacto complainant who is the wife.

2.It is the case of the petitioner that already a complaint was given by the wife and the same was registered in Crime No.1 of 2014. Thereafter, the respondent police had investigated the case and have filed a final report and the same has been taken on file by the Judicial Magistrate, Tenkasi in C.C.No.37 of 2015 for the



alleged offences under Sections 294(b), 406, 498 A of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. The learned counsel for the petitioner would submit that when this case was pending, respondent police had issued a summon, dated 16.08.2016 to the petitioner calling upon him to appear before the police station. The learned counsel would submit that when the matter is already pending before the competent Court, respondent police cannot call the petitioner and harass him in the name of enquiry.

3.The learned Government Advocate (Crl. Side) would submit that the summon was issued by the respondent police only on a subsequent complaint made by the wife on the ground that Srithana articles have not been returned back by the petitioner. It is seen that this very return of Srithana articles is also a subject matter in the final report that has been filed by the respondent police, since Section 406 of IPC has been specifically added in the final report. Therefore, one more complaint on the very same issue can never be entertained by the respondent police and the respondent police ought not to have entertained the complaint and issued summons to the petitioner.

4.In fine, the summon issued by the 4th respondent is illegal and the same is set aside and all the issues pertaining to the complaint which resulted in the issuance of the summon by the respondent police is pending before the Judicial Magistrate, Tenkasi in C.C.No.37 of 2015 and the parties are at liberty to raise all the grounds before the Sub Court.

5.Accordingly, this Criminal Original Petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1.The Judicial Magistrate, Tenkasi, Tirunelveli District.

2.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

3.The Deputy Superintendent of Police,
Tenkasi Sub-Division, Tirunelveli District.



4.The Inspector of Police,
All Women Police Station, Tenkasi,
Tirunelveli District.

5.The Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P. (MD) No.15505 of 2016
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TR/SV/SAR-I (01.10.2018) 3P 7C