



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.O.P. (MD).No.14987 of 2018

and

Crl.M.P. (MD) No.6639 of 2018

K.Subramaniam

...Petitioner/Sole Accused

Vs.

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
District Crime Branch,
Tirunelveli,
Tirunelveli District.

2.The Inspector of Police,
Serious Crime Squad,
Tirunelveli,
Tirunelveli District. ...Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records pertaining to the summons of the 2nd respondent dated 01.08.2018 and quash the same.

For Petitioners :Mr.C.K.M.Appaji

For Respondents :Mr.M.Chandra Sekaran
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed challenging the summons issued by the second respondent dated 01.08.2018 and quash the same.

2.Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the official respondents.

3.The petitioner is the accused in Crime No.26 of 2018. He was also arrested by the respondent police. Subsequently summon dated 01.08.2018 has been issued by the second respondent asking the petitioner to furnish various details and documents. Aggrieved by the same, the present Criminal Original Petition has been filed by the petitioner herein.

4.The learned counsel for the petitioner would submit that summon has been issued under Sections 41 (A) and 91 of Cr.P.C. It is submitted by the learned counsel for the petitioner that Section 41 (A) of Cr.P.C., can be invoked only in a case, where arrest of a



person is not required and notice has been issued by the police directing the person to appear before him. In this case, the said provision will not apply, since admittedly, the petitioner was arrested.

5. The learned counsel for the petitioner would further submit that Section 91 of Cr.P.C., also cannot be invoked by the second respondent, since incriminating materials cannot be sought for from the accused in the guise of issuing summons under Section 91 of Cr.P.C.

6. The learned Government Advocate would submit that the respondent police was only trying to gather informations from the petitioner and if the petitioner chooses not to furnish such information or produce documents, it is for him to take decision. The second respondent has only attempted to gather information from the petitioner and there is no compulsion on the petitioner.

7. It is the right of the accused to maintain silence. The second respondent has merely issued summon asking the petitioner to furnish certain details and also documents. He can always maintain silence. There is no requirement for the petitioner to challenge summon. This right has been guaranteed under Article 20 (3) of the Constitution of India.

8. In view of the same, this Criminal Original petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar(CS-IV)

To

1. The Inspector of Police,
District Crime Branch,
Tirunelveli,
Tirunelveli District.

2. The Inspector of Police,
Serious Crime Squad,
Tirunelveli,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
+1cc to Mr.C.K.M.Appaji, Advocate, SR.No. 81449

CrI.O.P.(MD).No.14987 of 2018
30.08.2018