

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP Nos.16406 & 16408 of 2019
and
Crl.M.P.Nos.8237 & 8238 of 2019

M.Srinivasan .. Petitioner
in Crl.O.P.No.16406 of 2019

S.Uma .. Petitioner
in Crl.O.P.No.16408 of 2019

.Vs.

1.The Addl. Superintendent of Police,
O/o.The Superintendent of Police,
Namakkal,
Namakkal District.

2.The Sub Inspector of Police,
Mallasamuthram Police Station,
Namakkal District.

3.C.K.Suresh ..Respondents
in both Crl.OPs

COMMON PRAYER: Criminal Original Petition filed under
Section 482 of the Code of Criminal Procedure, to call for the
records pertaining to the summons of the 3rd respondent dated
08.05.2019 and quash the same.

For Petitioners : Mrr.C.K.M.Appaji
in both Crl.OPs

For R-1 & R-2 : Mr.M.Mohamed Riyaz, APP
in both Crl.OPs

COMMON ORDER

These Criminal Original Petitions have been filed
challenging the summon issued by the respondent Police under
Section 160 and 91 of Cr.P.C.

2. The learned counsel for the petitioners opposing

from raising other grounds, also submitted that the respondent Police cannot issue summons under Section 160 of Cr.P.C., even without registration of an FIR. Therefore, the learned counsel questioned the very authority of the respondent Police to issue such a summon.

3. Heard the learned Additional Public Prosecutor appearing on behalf of the respondents 1 and 2.

4. A summon under Section 160 and 91 of Cr.P.C can be issue only in the course of investigation. The investigation can commence only by registration of an FIR under Section 154 of Cr.P.C. In the present case, admittedly no FIR has been registered by the respondent Police. Therefore, the summon issued by the respondent Police itself is without any authority.

5. In view of the above, the impugned summon has to be necessarily interfered with.

6. Criminal Original Petitions are disposed of with a direction to the respondent Police to proceed further only in accordance with law and issue such summons only after the registration of the FIR. Consequently, connected miscellaneous petitions are closed.

KP

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Addl. Superintendent of Police,
O/o.The Superintendent of Police, जयते
Namakkal, Namakkal District.

2.The Sub Inspector of Police,
Mallasamuthram Police Station,
Namakkal District.

3.The Public Prosecutor,
High Court of Madras, Madras.

CrI.OP Nos.16406 & 16408/2019

Kak(09/09/2019)