



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2019

CORAM

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

CRL OP (MD) .No. 9864 of 2019

and

Crl.M.P. (MD) .No.6238 of 2019

1. Ashokkumar
2. Murugaesan
3. Saroja
4. Subramaniyan

... Petitioners

Vs.

1. The State represented by
The Sub-Inspector of Police,
Devakottai Taluk Police Station,
Sivagangai District.

2. Muni Arasu

... Respondents

PRAYER: This Petition filed under Section 482 of Criminal Procedure Code, to call for the records in connection with the summon issued by the first respondent under Section 160 of Cr.P.C. dated 03.07.2019 pending on the file of the respondent and quash the same as not maintainable.

For Petitioner : Mr.N. Ravishankar Vallatharasu
For Respondent-1 : Mr. K.K. Ramakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the summons issued by the first respondent under Section 160 of the Criminal Procedure Code dated 03.07.2019.

2.The grievance of the petitioners is that based on a complaint given by the second respondent in respect of alleged business dealing in the year 2014-15, now, the first respondent has issued summons under Section 160 of the Code of Criminal Procedure and also directed the petitioners to appear for enquiry.

3.The learned counsel appearing for the petitioners submitted that sofar no First Information Report has been registered and no investigation is pending against the petitioners. In these circumstances, summons cannot be issued to the petitioners under Section 160 of the Code treating the petitioners as an accused. Hence, summons issued to the petitioners under Section 160 of the Code of Criminal Procedure is necessarily to be quashed.



4. The learned Additional Public Prosecutor appearing for the first respondent, on instructions, submitted that based on a complaint given by the second respondent, preliminary enquiry has been conducted by the first respondent and only for the enquiry notices have been issued to the petitioners. However, such notices have been issued wrongly under Section 160 of the Code of Criminal Procedure to the petitioners to appear for enquiry and now, preliminary enquiry is pending against the petitioners.

5. I have considered the rival submissions.

6. Admittedly, no First Information Report has been registered and no investigation is pending against the petitioners, hence the first respondent cannot issue summons under Section 160 of the Code of Criminal Procedure. In the said circumstances, the summons issued to the petitioners should necessarily be quashed. Accordingly, the summons issued under Section 160 of the Code of Criminal Procedure is hereby quashed. However, considering the fact that an enquiry is pending against the petitioners, regarding business dealing between the first petitioner and the second respondent, the first petitioner is directed to appear for enquiry. The first respondent Police is directed to conduct the enquiry afresh, and during the enquiry, the first respondent is further directed not to harass the first petitioner under the guise of enquiry.

7. With the above direction, the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Sub-Inspector of Police,
Devakottai Taluk Police Station,
Sivagangai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr. N. BALASUBRAMANIAN, Advocate (SR-75342[F] dated 15/07/2019)

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