

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 24.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN****W.P. (MD) No.16523 of 2019****and****W.M.P. (MD) Nos.13173 and 13174 of 2019**

M.S.Mohamed Salihu

... Petitioner

Vs.

1.The State of Tamil Nadu
represented by the Superintendent of Police,
Tuticorin District.

2.The Sub Inspector of Police,
Arumuganeri Police Station,
Tuticorin District.

3.Mr.Sundaramoorthy,
Sub Inspector of Police,
Arumuganeri Police Station,
Tuticorin District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the summons issued by the second respondent on 21.06.2019, 22.06.2019 and 25.06.2019 and quash the same as illegal.

For Petitioner	:	Mr.M.Mahaboob Athiff for M/s.Ajmal Associates
For R1 & R2	:	Mr.K.Suyambulinga Bharathi Government Advocate (Crl.side)

O R D E R

This writ petition has been filed challenging the summons issued by the second respondent under Sections 160 r/w. 91 of Cr.P.C., directing the petitioner to appear for an enquiry.

2. The grievance of the petitioner is that as on today, there is no crime has been registered against the petitioner and no investigation is pending. The petitioner is also not an accused in a criminal case and the respondent police has no jurisdiction to issue summon under Sections 160 r/w. 91 of Cr.P.C.



3. Today, the learned Government Advocate (Crl.side) on instructions would submit that based on the complaint given by the Commissioner of Kayalpattinam Municipality alleging that the petitioner has circulated some message against him in social media, an enquiry is being conducted by the second respondent police and as on today, there is no crime has been registered against the petitioner.

4. Considering the fact that as on today, there is no crime has been registered against the petitioner and the petitioner is not an accused, the respondent police cannot issue summon under Sections 160 r/w. 91 of Cr.P.C. Hence, the summons issued by the second respondent on 21.06.2019, 22.06.2019 and 25.06.2019 are liable to be quashed. Accordingly, the summons issued by the second respondent are quashed. However, considering the fact that an enquiry is pending against the petitioner, the petitioner is directed to appear before the second respondent for enquiry and during enquiry, the second respondent police is also directed not to harass the petitioner under the guise of enquiry. Accordingly, this writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Superintendent of Police,
Tuticorin District.

2.The Sub Inspector of Police,
Arumuganeri Police Station,
Tuticorin District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate SR-77483.

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