

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.3924 of 2020

and

CrI.M.P.No.2264 of 2020

Manish Kumar,
S/o.Late Narendra Kumar,
No.11, Ballygunge Park Road,
Kolkata,
West Bengal - 700 019. Petitioner

Vs.

1. The State
Represented by the Inspector of Police,
Central Crime Branch,
Office of the Commissioner,
Tiruppur.
2. Manoj Kumar Patodia,
S/o.Purushotham Das Patodia,
Designated Partner,
Prime hi-tech textiles LLP,
170, M.G.Road (old Jamuna lal Bajaj Street)
Kolkata,
West Bengal - 700 019. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in respect of the impugned summons bearing reference C.No.34/COP/PGP/TPR-CITY/2020 and C.No.18/CCB/TPR-CITY/2020 issued by the first respondent and quash the same.

For Petitioner : M/s.Ganesh and Ganesh

For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For R2 : Mr.S.Ramachandran

ORDER

This petition has been filed for a direction, to call for the records in respect of impugned summons bearing Ref.C.No.34/COP/PGP/TPR-CITY/2020 and Ref.C.No.18/CCB/TPR-

CITY/2020 issued by the first respondent.

2. The learned counsel for the petitioner would submit that, when the entire issues are not attracted only non-cognizable offence and as such the first respondent ought not to have issued summons to the petitioner. The second respondent is also residing at West Bengal and the entire issues arose within the jurisdiction of West Bengal. Therefore, the first respondent absolutely has no jurisdiction to issue summons to the petitioner. He also submitted that, for the very same issue, the second respondent already initiated proceedings for the offences punishable under Section 138 of Negotiable Instruments Act, 1881 in respect of money transaction between the petitioner and the second respondent, in which the second respondent also issued notice to the petitioner. While being so, a false case has been foisted that too as before the first respondent without having any jurisdiction and on receipt of the same, the first respondent issued impugned summons to the petitioner. Therefore, he sought for quashment of the summons issued by the petitioner.

3. The learned Additional Public Prosecutor would submit that, on the complaint received by the second respondent, the first respondent issued summon to the petitioner, directing the petitioner to appear for enquiry on 15.02.2020. After receipt of the same, the petitioner did not appear before the first respondent and approaches this Court by filing this petition to quash the same.

4. Heard M/s.Ganesh and Ganesh, learned counsel for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent and Mr.S.Ramachandran, learned counsel appearing for the second respondent.

5. The petitioner was issued impugned summon under Sections 160 and Section 91 of Cr.P.C., on the complaint lodged by the second respondent vide Ref.C.No.34/COP/PGP/TPR-CITY/2020 and Ref.C.No.34/COP/PGP/TPR-CITY/2020, to direct the petitioner to appear before the first respondent for enquiry on 15.02.2020. There is absolutely no bar to the first respondent under Criminal Procedure Code to issue summon under Sections 160 & 91 of Cr.P.C, to call upon the petitioner for enquiry on the complaint lodged by the second respondent herein. Further it is premature to procure the entire allegations or the incident happened within the jurisdiction of West Bengal and also the issues are involved only non-cognizable offence. Therefore, the first respondent, on receipt of the complaint from the second respondent issued only summon to the petitioner herein to appear for enquiry. That apart, it would be also presume that the allegations made in the notice issued, to initiate proceedings for the offences punishable under Section 138 of Negotiable Instruments Act,

1881 and the allegations made in the complaint lodged by the second respondent are one and the same. Therefore, the petition is devoid of merits. Accordingly, this Criminal Original Petition is dismissed.

6. On a perusal of the record, the petitioner is directed to appear before the first respondent for enquiry in Ref.C.No.34/COP/PGP/TPR-CITY/2020 and Ref.C.No.34/COP/PGP/TPR-CITY/2020 on the complaint lodged by the second respondent herein on 05.10.2020. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To

1. The Inspector of Police,
Central Crime Branch,
Office of the Commissioner,
Tiruppur.

2. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.Ganesh & Ganesh, Advocate, S.R.No. 25901

Cr1.O.P.No.3924 of 2020

and

Cr1.M.P.No.2264 of 2020

BR (CO)

GN (26/08/2020)

WEB COPY