

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Crl.O.P.No.18048 of 2020
and
Crl.M.P.No.7072 of 2020

C.Ramaiah
S/o, Vengaiah,
No.15/6, Balaraman Street,
Thiruvika nagar,
Chennai 82.

...Petitioner

-Vs-

1. The Inspector of Police,
M4 Red hills Police Station,
Chennai 52.
2. Chokkakula Kanniya Devi,
W/o, Chokkakula Ranga Babu,
No.11a, First Floor, N Street,
Kelapauk Garden Colony,
Chennai -1.

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records in the proceeding under section 41A of the Crpc in Crime No.741 of 2018 on the file of the 1st respondent dated 13/10/2020. Herein quash the summon as illegal.

For Petitioner : Mr.K.Nagarajan

For R1 : Ms.M.Prabhavathi
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been laid by the petitioner seeking to quash the proceeding issued by the first respondent under section 41(A) of Code of Criminal Procedure in Crime No.741 of 2018 dated 13.10.2020.

2. In respect of the Crime No.741 of 2018 registered under section 406 and 420 IPC against one Perimala (A1), Amali(A2), both are daughters of Durai Raj, the offences alleged to have been committed in respect of the land dealings, the first respondent has called upon the petitioner to appear before him for enquiry under section 41(A) Crpc dated 13.10.2020 and impugning the said notice, the present Criminal Original Petition has been preferred by the petitioner.

3. It is mainly contended by the petitioner's counsel that the petitioner's name is not disclosed in the abovesaid F.I.R and he is no way connected with the offences leveled by the defacto complainant namely Chokkakula Kanniya Devi. In such circumstances, according to him, the first respondent is not competent to issue the notice under section 41(A) Crpc, directing him to appear before first respondent for enquiry in connection with the Crime No.741 of 2018 and therefore contended that the impugned notice is liable to be quashed.

4. When as per section 41(A) Crpc, the police officer shall in all cases, where the arrest of a person is not required under the provisions of sub-section(1) of section 41, competent to issue a notice directing the person against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists that he has committed a cognizable offence to appear before him or at such other place as may be satisfied in the notice, it is evident that the police officer is empowered to issue a notice under section 41(A) Crpc, not only against the accused persons named in the F.I.R but also against any person against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists that he has committed a cognizable offence and in such view of the matter, accordingly the first respondent having entertained a reasonable doubt that the petitioner has nexus to the crime involved in the offences registered in Crime No.741 of 2018, had chosen to issue the impugned notice. If according to the petitioner, he is no way involved in the commission of the aforestated offences, the petitioner should comply with the terms/directions of the notice and appear before the respondent police and putforth the facts known to him with reference to the alleged land dealings, the subject matter of the Crime No.741 of 2018. When as per section 41(A)(2), the person to whom a notice under section 41(A)(1) is issued, it shall be the duty of that person to comply with the terms/directions of the notice, resultantly the petitioner is bound to comply with the terms of the notice and the mere fact that his name is not mentioned in the F.I.R would not entitle

the petitioner to contend that the first respondent is not entitled to issue the notice under section 41(A) Crpc and that the said notice is liable to be set aside.

5. There can be no gainsaying the fact that the court in the exercise of judicial review does not interfere with the conduct of investigation under and in accordance with the provisions of the Code of Criminal Procedure, 1973.

6. Considering the facts and circumstances narrated above, when the impugned notice issued by the first respondent is found to be in connection with the investigation qua the Crime No.741 of 2018 and in accordance with the provisions of the Code of Criminal Procedure, I do not find any valid and acceptable reason to quash the abovesaid impugned notice as prayed for by the petitioner.

7. In conclusion, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mfa
To

1. The Inspector of Police,
M4 Red hills Police Station,
Chennai 52.

2.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.K.Nagarajan, Advocate Sr.37029

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bp[col]
srg 07/12/2020