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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.16709 of 2021

and

CrI.M.P.No.9125 of 2021

1.R.Harikrishnan

2.Santosh

... Petitioners

Versus

1.The State represented by,
The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.

2.R.S.Jeyaprakash

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure to quash the summons dated 03.09.2021 issued to the petitioners in crime No.641 of 2021 on the file of the Respondent.

For Petitioners : Mr.P.Saravana Sowmiyan

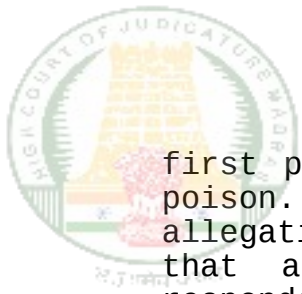
For Respondent : Mr.A.Damodaran,
No.1 Additional Public Prosecutor

ORDER

The criminal original petition has been filed to quash the summons dated 03.09.2021 issued to the petitioners in crime No.641 of 2021 on the file of the first Respondent.

2.The first petitioner is the son-in-law of the defacto complainant, the second respondent and the second petitioner is the uncle of the first petitioner. The second respondent's wife Geethamani had committed suicide by consuming poison, a case in Crime No.641 of 2021 registered under Section 174 Cr.P.C. In the process of enquiry, the petitioners were summoned to appear on 04.09.2021 before the first respondent, against which, the present petition has been filed.

3.The contention of the learned counsel for the petitioners is that the petitioners do not dispute that the



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first petitioner's mother-in-law committed suicide by consuming poison. He further submits that he is not going into the allegation or merits of the complaint. His only grievance is that a case which was registered under 174 Cr.P.C. the respondent police have got no authority to issue summons under Section 91 and 160(1) Cr.P.C calling for enquiry. He further submits that the respondent police, in the guise of investigation under Section 174 Cr.P.C, are following the provision under Section 157 Cr.P.C. by issuing summons and he relies on the decision of the Apex Court in Manoj K Sharma Vs. State of Chatisgarh reported in (2016) 9 SCC 1.

4.The learned Additional Public Prosecutor submits that in this case, the marriage between the first petitioner and the deceased daughter had taken place on 31.08.2020, which was celebrated in grand manner. The first petitioner always made demand of dowry and property, thereafter, he had left his wife with her parents' stating that after the house warming ceremony, he will take her and he used to visit his wife once or twice a month. The daughter of the deceased was pregnant at that time, due to the mental torture by the first petitioner and his family members, she had an abortion. When the deceased daughter was taking treatment in Lalitha Hospital, the first petitioner along with his family members came and abused the deceased and her daughter, who is the wife of the first petitioner. Unable to tolerate the same, the deceased committed suicide. For the purpose of enquiry, the petitioners are needed. The petitioners failed to respond to the summon and cooperate for enquiry, filed the above petition. Subsequently, the petitioner appeared for enquiry. Thereafter investigation is going on.

5.In view of the same, nothing survives in this petition. Accordingly, the criminal original petition is dismissed. It is made clear that the petitioners whenever called for enquiry by the law enforcing authorities for the purpose of investigation or enquiry, they are duty bound, to respond to the summon issued. The quashing of the summon can be done only in the rarest of rare cases, when there is no materials allegations between the person, who is summoned and the enquiry that is going on. In this case, it is not so. In view of the same, the petitioner is directed to respond to the summon issued by the respondent police. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar



1.The State represented by,
The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.16709 of 2021
and
Cr1.M.P.No.9125 of 2021

VBM(CO)
B.VC (27/10/2021)