

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

W.P.No.20318 of 2020
and W.M.P.No.25108 of 2020

R.Dharmalingam

.. Petitioner

Vs.

1. The Director General of Police Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

(1st Respondent is deleted as per the
order dated 26.02.2021)

2. The Deputy Superintendent of Police,
Rasipuram,
Namakkal District.

3. N.Radhakrishnan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, call for entire records in pursuant to the Summons issued by the 2nd Respondent dated 14.12.2020, under Na.Ka.No.393/SDO-R/2015 and Quash the same.

For Petitioner : Mr.T.Dharmarajan

For Respondents: Mr.M.Mohamed Riyaz

Additional Public Prosecutor
for R1 and R2

O R D E R

This writ petition has been filed challenging the impugned summons issued by the 2nd respondent dated 14.12.2020 under Section 91 Cr.P.C.

2.The first respondent is not a necessary party in this writ petition and hence deleted.

3.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent police.

4.The issue involved in the present writ petition is squarely covered by the earlier judgment of this Court in Benjamin vs. The Superintendent of Police, Sinagangai District and Others reported in 2019 2 LW Cr1 628.

5.This Court had categorically held that such summons under Section 91 Cr.P.C. or 160 Cr.P.C. cannot be issued even before the FIR is registered.

6.On this short ground the impugned summons issued by the 2nd respondent is liable to be set aside and accordingly this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

ssr

To

1. The Director General of Police Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.
2. The Deputy Superintendent of Police,
Rasipuram,
Namakkal District.
3. The Public Prosecutor,
High Court, Madras.

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and W.M.P.No.25108 of 2020

SMI (CO)
GMY (01/07/2021)

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