



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.9697 of 2022 and  
Crl.M.P.No.5689 of 2022

M.Gowri

... Petitioner

Vs.

T.Saravanan

... Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to quash the summon dated 15.02.2022 issued by the learned Judicial Magistrate-II, Chidambaram in STC No.398 of 2021 and consequently direct the learned Judicial Magistrate to issue a fresh summon in STC No.398 of 2021 along with copies of the complaint and document annexed there to.

For Petitioner : Mr.S.Saravana Kumar

ORDER

This Criminal Original Petition has been filed seeking to quash the summon dated 15.02.2022 issued by the learned Judicial Magistrate-II, Chidambaram in STC No.398 of 2021 and consequently direct the learned Judicial Magistrate to issue a fresh summon along with the copies of the complaint and document annexed there to.

2. The main contention of the petitioner is that the Magistrate while issuing summon has not followed the mandatory provisions containing under Section 204(3) Cr.P.C. and therefore, the summon is sought to be quashed.

3. Admittedly, a proceeding has been initiated against the petitioner under Section 138 Negotiable Instruments Act. The learned Magistrate taken cognizance by issuing summons. No doubt, Section 204(3) Cr.P.C. makes it clear that every summon or warrant issued shall be accompanied by a copy of such complaint. In this case, whether the complaint is sent or not along with the summon, itself is a disputed one. Mere non accompanying of the complaint, without establishing the prejudice by the accused, summons issued by the Magistrate cannot be quashed.



4. In such view of the matter, the petitioner is directed to appear before the Magistrate on the day he is summoned. If the Magistrate finds that no complaint copy is annexed to the summon, the Magistrate shall immediately provide the copy of the complaint and thereafter, the petitioner can proceed the case as per law and take his defence in the manner known to law.

5. Accordingly, this Criminal Original petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksa-2/nr

To:

1.The Judicial Magistrate No.II,  
Chidambaram.

2.The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.S.Saravanakumar, Advocate, S.R.No.37031

Crl.O.P.No.9697 of 2022 and  
Crl.M.P.No.5689 of 2022

GSM(CO)  
SB(07/07/2022)