



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.10257 OF 2022

AND

CRL.M.P.NO.6079 OF 2022

Parthiban

... Petitioner

.Vs.

1. The Superintendent of Police,
Cyber Crime Branch,
Erode District.

2. The Additional Superintendent of Police,
Cyber Crime Branch,
Erode District.

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C. to quash the summons referring to Ref.C.No.14/ADSP-CCW/Ed/2022 dated 21.04.2022, issued on 23.04.2022 by the 2nd respondent against the petitioner in view of the above stated facts and circumstances.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the summons dated 23.04.2022, issued by the 2nd respondent, against the petitioner.

2. The learned counsel for the petitioner submitted that, without a case being registered, the respondent Police has issued summons under Sections 160 and 91 Cr.P.C., dated 23.04.2022, which is not sustainable in law. In support of his



contention, the learned counsel relied on the judgment of this Court in Prakash Transports and six others v. The Inspector of Police reported in 2004 (1) CTC 130.

3. The learned Additional Public Prosecutor, appearing for the respondents, would submit that enquiry is pending before the respondent Police.

4. Heard the learned counsel on either side and perused the materials available on record.

5. This Court, in Para No.2 of the judgment in Prakash Transports's case (supra), has held as follows :

"If that be the case, it is not understandable as to how he should issue summons, since under Section 160 Cr.P.C., summons could be issued by any police officer making an investigation under that Chapter, which means that investigation is a sine qua non for issuing summons and the investigation can be conducted only in connection with the crime registered in terms of Section 154 Cr.P.C. Since there is no crime registered in terms of Section 154 Cr.P.C., no summons can be issued under Section 160 Cr.P.C. summoning a person to appear before the officer. As the summons summoning the petitioners, issued by the officer, is without jurisdiction, it is quashed."

6. In view of the above, this Criminal Original Petition is allowed and the impugned summons dated 23.04.2022 is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mkn

To

1. The Superintendent of Police,
Cyber Crime Branch,
Erode District.



2. The Additional Superintendent of Police,
Cyber Crime Branch,
Erode District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.30798

CRL.O.P.NO.10257 OF 2022

SSD(CO)
PBS/26/05/2022