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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.25748 of 2021 and
Crl.M.P.No.14281 of 2021

Dr.G.Loganathan

... Petitioner

Versus

State by Assistant Commissioner of Police,
Asthampatti Saragam Police Station,
Salem.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for and quash the notice and summons issued by the respondent u/s 41A Cr.P.C without a registered crime number.

For Petitioner : Mr.K.P.Anantha Krishna

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the the summons issued by the respondent u/s 41A Cr.P.C without a registered crime number.

2. The grievance of the petitioner is that the petitioner is running hospital in the name and style of Mullai Srinivasam Hospitals (G.L.Hospital) Private Limited. There was a lease agreement between the petitioner and one Govindh in the year 2011 for a period of 9 years. Thereafter some dispute arose between them. The petitioner filed a Civil Suit in O.S.No.494 of 2021 before the District Munsif, Salem not to evict the petitioner except by due process of law and the same is pending. This being so, the de-facto complainant lodged a complaint against the petitioner and the respondent police even without registering F.I.R. had issued notice under Section 41 A of Cr.P.C.. Hence, this petition.

3. The learned counsel appearing for the petitioner submitted that Section 41 A provision cannot be invoked and no notice can be issued without registration of F.I.R. In support of his contention, he relied upon the order this Court in



Crl.O.P.No.10929 of 2019 (Prakash Transport Vs. The Inspector of Police).

4. Heard both sides. Perused the records.

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5. A perusal of the records would go to show that the respondent police had taken the role of Investigating Officer and issued notice under Section 41 A of Cr.P.C. This Court finding that the Act of the respondent in issuing notice under Section 41 A of Cr.P.C. on 02.12.2021 against the petitioner is in violation of law, is inclined to quash the same.

6. Accordingly the notice issued by the respondent under Section 41 A of Cr.P.C. dated 02.12.2021 is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

arr

To

1. The Assistant Commissioner of Police,
Asthampatti Saragam Police Station,
Salem.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.P.Anantha Krishna, Advocate SR.No.958

CRL.O.P.No.25748 of 2021

MT (CO)
GMY (04/02/2022)