



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2022
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.25760 of 2021

1.Palanisamy

2.Mani

... Petitioners

Versus

1.The Superintendent of Police,
Salem District, Salem.

2.The Inspector of Police,
Omalur Police Station,
Salem District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to quash the summons dated 10.11.2021 issued by the 2nd respondent against the petitioners.

For Petitioners : Mr.M.Guruprasad

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

ORDER

The petitioners have filed this petition to quash the summons dated 10.11.2021 issued by the 2nd respondent against the petitioners.

2. The grievance of the petitioners is that the respondent police issued a notice of summons in Na.Ka.No.106/X/fh/ep/Notice/2021 dated 10.11.2021 under Sections 91 & 160 Cr.P.C to the petitioners to appear before the Omalur Police Station on 07.12.2021 at 11.00 A.M.

3. The learned counsel for the petitioners submits that only on Registration of F.I.R, a notice can be issued to the accused persons invoking the code of Criminal Original Procedure. Admittedly, the case is at the C.S.R stage in C.S.R. No.494 of 2021 and hence, notice cannot be issued. Therefore, the aforesaid notice of summons is bad in law and is not maintainable. In support of his contention of the petitioners, he relied upon the decisions of this Court in the cases of Mohammed Rafi vs. State in Crl.O.P. No.10929 of 2019 and Prakash Transports & 6 others Vs. The Inspector of Police



(2004 (1) CTC 130) wherein, this Court, time and again, had given a direction not to invoke Section 160 of Cr.P.C, even prior to the Registration of F.I.R.

4. Finding force in the petitioners submissions and following the lines of the judgments referred supra, wherein it has been held that Section 160 of Cr.P.C, can be invoked only after registration of the F.I.R, this Court is of the view that the notice of summons issued by the 2nd respondent in Na.Ka.No.106/X/fh/ep/Notice/2021 dated 10.11.2021 is bad in law and is not sustainable. Hence the same is quashed and this Petition is allowed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rkp

To

1.The Superintendent of Police,
Salem District, Salem.

2.The Inspector of Police,
Omalur Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.M.Guruprasad, Advocate Sr.NO. 565

Crl.O.P.No.25760 of 2021

KSM(CO)

A.SK(20.01.2022)