



Crl.O.P.No.2071 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.2071 of 2023

1.Juzar Saifuddin @ Joozar Saibutheen
2.Huzefa Juzar @ Hooseaba Joozar
3.Samina Juzar @ Sameena Joozar ... Petitioners

Vs

1.The Assistant Commissioner of Police,
Central Crime Branch,
Tiruppur City.

2.The Inspector of Police,
Central Crime Branch,
Tiruppur City.

3.C.Rathinasami ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to quash the summons dated 05.01.2023 issued by the 2nd respondent against the petitioners in view of the above stated facts and circumstances.

For Petitioners : Mr.M.Guruprasad

For Respondents : Mr.S.Santhosh (for R1 & R2)

Government Advocate (Crl.Side)



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CrI.O.P.No.2071 of 2023

ORDER

This petition has been filed for quashing the summons dated 05.01.2023 issued by the 2nd respondent against the petitioners.

2. The learned counsel for the petitioner submitted that the petitioner had been summoned for enquiry on 14.09.2022, 23.09.2022, 21.11.2022 and 27.01.2023. The summons had been received under Sections 91 & 160 of Cr.P.C. So far no First Information Report is registered in this case. Therefore issuance of summons as per Sections 91 & 160 of Cr.P.C. is not proper. In the said circumstances, this petition is filed for quashing summon dated 05.01.2023.

3. The learned Government Advocate (crl.side) in response to the aforesaid submission submitted that the petitioner did not appear in any of the hearings. It is further submitted that one Rathinasami S/o Chinnasami had given a complaint alleging that the petitioners along with two accused received a sum of Rs.50,00,000/- on the promise of repaying Rs.65,00,000/-. Since monetary transaction is alleged with cheating, respondent police is required to conduct preliminary enquiry to decide as to register First Information Report or not.



CrI.O.P.No.2071 of 2023

4. This Court is of the view that, though issuance of summons under Sections 91 & 160 of Cr.P.C., may not be correct and appropriate, however when the allegations are with reference to monetary transactions with a shade of cheating, this Court is of the view that the petitioners shall appear before the respondent police for preliminary enquiry as mandated by the Hon'ble Supreme Court in *Lalitha Kumari Vs. Government of Uttar Pradesh* ((2014) 2 SCC 1). It is observed in para 120.6 that,

"120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- a) Matrimonial disputes/ family disputes*
- b) Commercial offences*
- c) Medical negligence cases*
- d) Corruption cases*
- e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.*

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry."

5. In view of the above, this Criminal Original Petition is dismissed with a direction given to the respondent police to issue fresh summons to the petitioners in pursuance to the direction by the Hon'ble Supreme Court in



CrI.O.P.No.2071 of 2023

Lalitha Kumari Vs. Government of Uttar Pradesh. On receipt of the summons, the petitioners are directed to appear and co-operate with the enquiry. It is open to the petitioners to provide the respondent police with the materials in their possession connected with the allegations made against them.

02.02.2023

Index :Yes/No
Internet:Yes/No
mpl



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Crl.O.P.No.2071 of 2023

G.CHANDRASEKHARAN, J.

mpl

To

- 1.The Assistant Commissioner of Police,
Central Crime Branch,
Tiruppur City.
- 2.The Inspector of Police,
Central Crime Branch,
Tiruppur City.
- 3.The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.2071 of 2023

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