



Crl.O.P.No.5391 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.5391 of 2023

P.Suresh Krishna

..Petitioner

Vs.

The State represented by
The Inspector of Police,
District Crime Branch,
Tiruppur District,
Tiruppur.

...Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records relating to summons in C.No.08/DCB/TPR/SPGDP/2023 dated 02.02.2023 on the file of the respondent and quash the same.

For Petitioner : Mr.S.Kamadevan

For Respondent : Mr.S.Santhosh,
Government Advocate (Criminal side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to summons in C.No.08/DCB/TPR/SPGDP/2023 dated 02.02.2023 on the file of the respondent and quash the same.



CrI.O.P.No.5391 of 2023

2. Learned counsel for the petitioner submitted that, without registration of any First Information Report, petitioner was asked to appear for enquiry, on the basis of the summons issued under Section 160 and 91(1) of Cr.P.C and that is illegal. Challenging the summon, this petition is filed.

3. Learned Government Advocate (Criminal side) submitted that, one Balaji proprietor of Balaji Traders gave a complaint against the petitioner, alleging that, petitioner cheated him in a business transaction. On the basis of the complaint, Current Paper enquiry is pending.

4. Considered the submissions and perused the records.

5. It was repeatedly held that, without registering the First Information Report, summons under Section 160 of Cr.P.C cannot be issued. However, the Hon'ble Supreme Court in ***Lalita Kumari Vs. Government of Uttar Pradesh and others*** reported in [2014 (2) SCC (1)] held that, in certain cases preliminary enquiry is required and those cases are,

- a) Matrimonial disputes/ family disputes
- b) Commercial offences



Crl.O.P.No.5391 of 2023

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.

6. This being the case, in a business transaction and alleged cheating, a preliminary enquiry is required. Therefore, respondent is entitled to conduct a preliminary enquiry in terms of directions issued by ***Lalita Kumari Vs. Government of Uttar Pradesh and others*** reported in [2014 (2) SCC (1)].

7. Thus, this court quashes the impugned summons and directs the respondent to issue fresh summon/notice to the petitioner, as per the directions of ***Lalita Kumari Vs. Government of Uttar Pradesh and others*** reported in [2014 (2) SCC (1)].



Crl.O.P.No.5391 of 2023

WEB COPY 8. With the above directions, this Criminal Original Petition is disposed of.

09.03.2023

Index : Yes / No
Internet : Yes / No
gd

To

The Inspector of Police,
District Crime Branch,
Tiruppur District,
Tiruppur.



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Crl.O.P.No.5391 of 2023

G.CHANDRASEKHARAN,J.

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Crl.O.P.No.5391 of 2023

09.03.2023