



Crl.O.P.No.5390 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.5390 of 2023

1.P.Suresh Krishna
2.K.Ponnusamy

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
District Crime Branch
Salem Town
Salem District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to summons dated 13/02/2023, on the file of the respondent and quash the same.

For Petitioners : Mr.S.Kamadevan

For Respondent : Mr.S.Santhosh
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to summons dated 13.02.2023, on the file of the respondent and to quash the same.



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2. Learned counsel for the petitioners submitted that petitioners received notice dated 13.02.2023 from respondent asking to appear for enquiry on 18.02.2023. Petitioners understands that no First Information Report was registered in this case so far, therefore, summoning the petitioners for enquiry on 18.02.2023 is illegal. In support of his submission, he produced an order passed by this court in Crl.O.P.No.10257 of 2022 for the proposition that summons under Section 160 of Cr.P.C., cannot be issued before registration of the First Information Report.

3. Learned Government Advocate (Crl.side) submitted that, in response to this notice, petitioners did appear for enquiry on 25.02.2023 and therefore, nothing survives in this petition. He further submitted that Mohanavalli gave a complaint against the petitioners on the allegations of cheating in business transaction. In connection with preliminary enquiry, petitioners were asked to appear for enquiry.

4. Hon'ble Supreme Court of India in ***Lalitha Kumari Vs. Government of Uttar Pradesh*** reported in **2013 (6) CTC 353** held that in certain cases conduct of preliminary enquiry is necessary before registration of First Information Report and those cases are,



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- 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.

This case, being a case of alleged cheating in connection with business transaction, conduct of preliminary enquiry is absolutely necessary. Therefore, this Court finds nothing wrong in requiring the petitioners to appear for enquiry, as per the guidelines issued by the Hon'ble Apex court in the aforesaid judgment. Enquiry in this case is already completed. If the petitioners are required for enquiry in future, the notice/summons should be given conforming to the guidelines issued judgment in ***Lalitha Kumari Vs. Government of Uttar Pradesh.***

5. Accordingly, this Criminal Original petition is dismissed.

08.03.2023

Internet: Yes
Index: Yes/No
mpl



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G.CHANDRASEKHARAN, J.
mpl

To:

- 1.The Inspector of Police,
District Crime Branch,
Salem Town,
Salem District.
- 2.The Public Prosecutor,
High Court of Madras.

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