



W.P No.11319 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No. 11319 of 2023

&

W.M.P. Nos. 11207 & 11210 of 2023

1.G.Sivakumar

2.G.Jayakumar

3.G.Thirumoorthi

4.G.Manivannan

... Petitioners

Versus

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

2.The Additional District Superintendent of Police,
Dharmapuri,
Dharmapuri District.

3.The Additional District Superintendent of Police,
C.W.C, Incharge of A.D.S.P,
District Superintendent Office,
Dharmapurti District.



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4.The Inspector of Police,
Adiyamankottai Police Station,
Adiyamankottai District.

5.The Tahsildhar
Nallampalli Taluk,
Nallampalli,
Dharmapuri District.

6.M.Dheivi

7.Murugan ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, to direct the respondents 1 to 4 or their subordinates not to interfere with civil disputes between the petitioners and the respondents 6 & 7 which are already pending in the suits in O.S.No.149 of 2022 on the files of the Sub-Court, Dharmapuri and O.S.No.94 of 2022 on the file of the District Munsif Court, Dharmapuri and consequently, restraint them from abuse of their power as against the petitioners herein.

For Petitioners : Mr. A.Ilayaperumal

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



4. The facts of the instant case is clearly covered by the Judgement of this Court reported in **2004 (1) CTC 130 – Prakash Transports Vs. The Inspector of Police**, which is extracted herein below for better understanding:

“2.The learned counsel appearing for the petitioners submits that as no crime was registered by the respondent-Police, he has no jurisdiction to issue summons under Section 160, Cr.P.C compelling the petitioners to appear before him and therefore, the summons has to be quashed. I find some substance in the said contention. The summons, which I have extracted above, shows that the officer did not even mention the crime number in the said summons. The learned Public Prosecutor also submits that no crime was registered by the respondent. If that be the case, it is not understandable as to how he should issue summons, since under Section 160, Cr.P.C., summons could be issued by any Police officer making an investigation



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under that Chapter, which means that investigation is a sine qua non for issuing summons and the investigation can be conducted only in connection with the crime registered in terms of Section 154, Cr.P.C. Since there is no crime registered in terms of Section 154 Cr.P.C., summoning a person to appear before the officer. As the summons summoning the petitioners, issued by the officer, is without jurisdiction, it is quashed. The petition is allowed.”

5. From the above Judgement, it is clear that no summons shall be issued under Section 160 of Cr.P.C without registering FIR under Section 154 Cr.P.C. Therefore, the summons has been issued without any power or jurisdiction.

6. In the result, the summons issued by the respondent Police is hereby quashed. It is left open to the respondent Police to proceed further with the case and deal with the complaint in accordance with



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the guidelines given by the Hon'ble Supreme Court in ***Lalitha***

Kumari Vs. Government of Uttar Pradesh reported in 2013 (6)

CTC 353. Accordingly, this Writ Petition is allowed.

Consequently, connected miscellaneous petitions are closed. No

costs.

12.04.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

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Dharmapuri District.

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Dharmapuri District.

3.The Additional District Superintendent of Police,
C.W.C, Incharge of A.D.S.P,
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