



WEB COPY



Crl.O.P.Nos.11451 and 11454 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2023

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.O.P.Nos.11451 and 11454 of 2023

P.Suresh Krishna

... Petitioner
in Crl.O.P.No.11451 of 2023

K.Ponnusamy

... Petitioner
in Crl.O.P.No.11454 of 2023

Vs.

The State Represented by
The Deputy Superintendent of Police,
Kangeyam, Tiruppur District.

... Respondent
in both Crl.O.Ps

Common Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., pleaded to call for the records of the respondent relating to summons dated 12.05.2023 and quash the same.

In both Crl.O.Ps

For Petitioners : Mr.S.Kamadevan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)



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COMMON ORDER

This petition has been filed to quash the summons dated 12.05.2023, issued by the respondent police, against the petitioners.

2. The learned counsel for the petitioners submitted that, without a case being registered, the respondent police has issued summons under Sections 160 and 91 of Cr.P.C., dated 12.05.2023, which is not sustainable in law. In support of his contention, the learned counsel relied on the Judgment of this Court in *Prakash Transports and six others Vs. The Inspector of Police* reported in *2004 (1) CTC 130*.

3. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that he has no objection for allowing the petitions by quashing the summons issued under Sections 160 and 91 of Cr.P.C, but, at the same time, he submit that the petitioners have to appear before the respondent police under Section 41-A of Cr.P.C.

4. Heard both sides and perused the materials available on record.



5. This Court, in Paragraph No.2 of the Judgment in *Prakash*

Transport's case (referred to supra), has held as follows:-

" 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 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., no summons can be issued under Section 160 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."

6. In view of the above, the impugned summons dated 12.05.2023 issued under Sections 160 and 91 of Cr.P.C. to be declared as not sustainable and therefore liable to be quashed and are accordingly quashed. However, under Section 41-A of Cr.P.C., the petitioners have to appear before the respondent police as and when required.



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WEB COPY 7. The Criminal Original Petitions stand allowed with the above observations.

18.05.2023

Index : Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation : Yes / No

arb/Jeni

To

- 1.The Deputy Superintendent of Police,
Kangeyam, Tiruppur District.
2. The Public Prosecutor,
High Court of Madras.



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A.A.NAKKIRAN, J.

arb/Jeni

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