



CrI.O.P.(MD) No.1488 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.1488 of 2024

and

CrI.M.P.(MD) No.1027 of 2024

Kalairani

...Petitioner

vs

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

**2.The Sub Inspector of Police,
Central Crime Branch III,
Madurai City.**

3.Kalaiarasan

...Respondents

**PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying, to call for the records pertaining to the impugned summon issued
by the second respondent dated 25.01.2024 and quash the same.**

For Petitioner : Mr.C.Ezhilarasu

**For R1 & R2 : Mr.M.Veeranthiran
Government Advocate (CrI.side)**



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ORDER

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The learned Counsel for the Petitioner submits that the Petitioner is impleaded as Defendant in the suit in O.S.No.490 of 2022 pending on the file of the learned 4th Additional District Judge, Madurai. It is the submission of the learned Counsel for the Petitioner that the third Respondent herein is the younger brother of the Petitioner herein. He had filed the suit for partition. The Petitioner herein as Defendant in the suit did not file the written statement on time and therefore, the suit was decreed ex parte. Subsequently, the Petitioner had filed an interlocutory application to set aside the ex parte order. Based on the ex parte order, the third Respondent had approached the Respondents 1 and 2. The second Respondent on the basis of the ex parte decree had issued summons to the Petitioner to appear for enquiry before him. Therefore, the Petitioner was forced to file this petition seeking to quash the summons issued by the second Respondent.

2.The learned Government Advocate (Crl.side), on instructions of the Respondents 1 and 2, submits that the second Respondent had issued summons based on the *ex parte* decree. Considering the fact that in the suit



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for partition, final decree is yet to be passed, the conduct of the second Respondent in issuing summons relating to the suit, when the suit had not been decreed in final decree based on the preliminary decree, is found unwarranted and unaccepted.

3. Accordingly, this Criminal Original Petition is allowed. The summon issued by the second Respondent dated 25.01.2024 against the Petitioner is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

Internet: Yes./No
Index: Yes/No
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13.03.2024

To

1. The Assistant Commissioner of Police,
Central Crime Branch,
Madurai City.
2. The Sub Inspector of Police,
Central Crime Branch III,
Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SATHI KUMAR SUKUMARA KURUP, J.

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