

Current Legal Affairs

Delhi High Court: Summons U/S 160 CrPC Cannot Be Issued by Police Officer Without Registration Of FIR

Recently in the case of, KULVINDER SINGH KOHLI v. STATE OF NCT OF DELHI & ORS, the Delhi High Court has ruled that a police officer may issue summons or notifications under Section 160 of the Code of Criminal Procedure in order to initiate an inquiry, but that FIR registration is required.

A police officer has the authority to ask witnesses to appear under Section 160 CrPC.

Justice Chandra Dhari Singh made the remark in response to a query on when a notice under Section 160 of the Code may be issued. The Court said that an inquiry cannot be regarded to have begun without the filing of a FIR. Furthermore, the Police Officer must act in line with the rules of the CrPC in order for an investigation to be considered legitimate and valid, and he may not go beyond his authority by conducting a preliminary investigation without filing a report to a Magistrate.

Three summonses issued by Deputy Captain Police, Cyber Crime against Kulvinder Singh Kohli, Founder and Non-Executive Chairman of FrankYnn Aviation Services Pvt. Ltd. were therefore overturned by the Court. He had been summoned by the appropriate authorities in response to a complaint filed by Rajbikramdeep Singh and his son Munjanpreet Singh.

Kohli and one Harvansjit Singh were accused of violating sections 153A, 501, 504, 505, 295A, 506 of the Indian Penal Code, 1860, and section 67 of the Information Technology Act, 2000.

Senior Advocate Vikas Pahwa, standing for the petitioner, maintained that the summons dated January 25, 2022 was the first mail he got from the competent authorities and that he had received no other correspondence previous to it.

Kohli further informed the responsible authorities in his reply dated 27th January 2022 that he had not received the initial notice or summons and that the summons did not include a copy of the application for which the summons were issued.

Kohli then asked that the authority supply him with a copy of the application; but, instead of giving him with a copy of the application/complaint, the authority issued him the second summons, notwithstanding his guarantee of complete cooperation in the investigation.

It was further maintained that the summons were without jurisdiction since they were issued by the pertinent Police Station from District S.A.S. Nagar under section 160 of the Cr.P.C., but Kohli, who resided in Delhi, did not fall within the jurisdiction of the aforementioned Police Station.

The prosecution, on the other hand, maintained that Kohli approached the Court in gross violation of his rights by filing a petition seeking quashing of the impugned notifications under section 160 of the Cr.P.C. rather than entering the investigation.

It was argued that the petitioner was served with notifications or summons in accordance with correct legal process and instructions made by the High Court of Punjab and Haryana.

The Court said that in the current case, it cannot be maintained that the relevant body was conducting an inquiry or an enquiry in a lawful or legal manner, even for the restricted purpose of issuing a notice under section 160 of the Cr.P.C.

The Court observed, *"The provision says that a Police officer making investigation may require attendance of "any person being within the limits of his own or any adjoining station", thereby, clearly and unequivocally setting limits to the jurisdiction within which the police officer is permitted to act."*

The petitioner was served with a notice under section 160 of the Cr.P.C. at his correspondence address in Gurugram, Haryana, according to the Court.

Conclusion- The Court found that the authority did not issue the notice under section 160 of the Cr.P.C. at the appropriate time because he could not have been deemed to be conducting an inquiry under the Cr.P.C. without the filing of a FIR for the purpose of issuing the notice.

The summons or notices were issued without jurisdiction by the responsible authorities at S.A.S. Nagar, Mohali, Punjab to the petitioner dwelling outside of its own station as well as any adjacent station, it was said.

Consequently, the petition was granted.

