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**(2001) 08 AP CK 0166**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Petition No. 14535 of 1999**

Mathews Peter

APPELLANT

Vs

Asst. Police Inspector, Crime Branch-II and Others

RESPONDENT

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**Date of Decision : 23-08-2001**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 160, 160(1)  
Penal Code, 1860 (IPC) — Section 109, 120(B), 34, 420, 468

**Citation :** (2001) 2 ALD(Cri) 645 : (2002) 3 ALT 47 : (2002) CriLJ 1585

**Hon'ble Judges :** R. Ramanujam, J

**Bench :** Single Bench

**Advocate :** C.V. Nagarjuna Reddy, for the Appellant; M. Rama Rao and G.P. for Home for Respondent Nos. 2 and 3, for the Respondent

**Final Decision :** Allowed

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## Judgement

R. Ramanujam, J.—The short question that arises for consideration in this writ petition is:

Whether an investigating police officer has power to require attendance of a witness who is not residing within the limits of his police station or in any adjoining station?

2. The facts giving rise to this question may now, briefly, be stated:

The petitioner is a resident of Hyderabad city. Mr. N.K. Gaikwad, Sub-Inspector of Police, Crime Branch-II, Pune city i.e., the 2nd respondent herein had issued summons dated 24-9-1998, u/s 160 of the Code of Criminal Procedure, informing the petitioner that an investigation was going on by Samarth Police in Crime No. 3 of 1998 under Sections 420, 468, 471, 34, 109 and 120(B) of the Indian Penal Code and in that connection the presence of the petitioner was required for further investigation and, therefore, he should be present before him at Urvasi hotel, Punjagutta, Hyderabad at Room No. 317 on 25-9-1998 at 10 a.m. On service of the said summons, the petitioner appeared before the said Sub-

Inspector of Police on 25-9-1998 at Urvasi hotel at the appointed time and then his statement was recorded. Thereafter, another summons dated 28-9-1998, u/s 160 of the Code of Criminal Procedure, was served on the petitioner calling upon him to appear before the said Sub-Inspector of Police, at Pune, at his office on 2-10-1998 at 11 a.m. for further investigation. Then, the petitioner sent a telegram pleading his inability to appear before the said Sub-Inspector of Police on 2-10-1998 at Pune. Thereupon, the petitioner was asked to attend before the said Sub-Inspector of Police, at Pune, on 12-10-1998 at 11 a.m. Then, the petitioner went to Pune along with his advocate and attended the office of Crime Branch-II on 12-10-1998. It appears that on that date, the said N.K. Gaikwad, Sub-Inspector of Police was out of Pune city. Since the petitioner was not able to ascertain, in spite of his best efforts, when the said N.K. Gaikwad would return to Pune City, he came back to Hyderabad. Sometime thereafter, the said N.K. Gaikwad was transferred. Sri S.R. Kulkarni, Assistant Police Inspector, Crime Branch-II, Pune i.e., the 1st respondent herein, who came in his place, issued summons dated 5-12-1998, u/s 160 of the Code of Criminal Procedure, asking the petitioner to attend before him in his office at Pune on 21-1-1999 at 11 a.m. Finding it difficult to attend before the said S.R. Kulkarni, at Pune on that date, the petitioner addressed a letter explaining the reasons and requesting him to furnish a copy of the F.I.R. in Crime No. 3 of 1998.

3. The case of the petitioner is that he could get a copy of the F.I.R which was in Marathi language, through his advocate, Miss Nivedita C. Kale, who informed him that his name does not figure in the F.I.R. Subsequently, the said S.R. Kulkarni, Assistant Police Inspector, came to Hyderabad on 4th or 5th June 1999 and asked the petitioner to go over to Pune. The case of the petitioner is that when he explained his difficulty and the inconvenience that would be caused to him in visiting Pune frequently, the said police officer told him that even though he is not concerned with Crime No. 3 of 1998, he should meet him at Pune as he had to file final report in Crime No. 3 of 1998. On 12-7-1999, the petitioner again received summons dated 8-7-1999 issued by the 1st respondent herein directing him to present before him in his office at Pune on 20-7-1999. Vexed by the aforesaid action of the respondents, the petitioner filed the present writ petition.

4. The main contention advanced by the learned counsel for the petitioner, Mr. C.V. Nagarjuna Reddy, is that u/s 160 of the Code of Criminal Procedure, the respondents have no power to issue summons requiring the petitioner's attendance inasmuch as the petitioner is not residing within the limits of their police station or in any adjoining station.

5. For proper appreciation of the said contention, it is appropriate to extract Section 160(1) of the Code of Criminal Procedure:

"(1) Any Police Officer making an investigation under this chapter may by order in writing require the attendance before himself of any person being within the limits of his own or any adjoining station who from the information given or otherwise appears to be acquainted with the facts and circumstances of the case;

and such person shall attend as so required.

6. A close reading of the aforesaid provision would clearly show that the police officer, who is investigating a crime, can only require the attendance of a person, who appears to be acquainted with the facts and circumstances of the case under investigation and who is living within the limits of his own or any adjoining station for the purpose of interrogation or otherwise.

7. This view is fully supported by a decision of the Delhi High Court in Washeshar Nath Chadha Vs. The State, wherein it was held that:

"A bare reading of the above section makes it abundantly clear that a Police officer is empowered to direct any person to be present before him so as to be available for interrogation who appears to be acquainted with the facts and circumstances of the case provided that the said person is available within the limits of his own or any adjoining station."

8. Undisputedly, in this case, the petitioner is not residing within the limits of police station of respondents 1 and 2 herein or any adjoining station. He is residing at Hyderabad, which is far away from Pune. Therefore, the action of the respondents in issuing summons to the petitioner, u/s 160 of the Code of Criminal Procedure, cannot be upheld.

9. The Writ Petition is, therefore, allowed with costs.

10. A Writ of Mandamus shall issue declaring the action of the respondents in issuing summons to the petitioner u/s 160 of the Code of Criminal Procedure, directing him to be present before them at Samarth Police Station. Pune, in connection with investigation in Crime No. 3 of 1998 as illegal and void.