

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.23064 of 2016

1. S.Palani
2. S.Ganesan
3. M.Srinivasan
4. K.Jeyaraman
5. K.Hariptiri

... Petitioners

Vs

The Inspector of Police,
Anti Land Grabbing Cell,
District Crime Branch,
Villupuram.

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondent police not to harass the petitioners under the guise of enquiry in virtue of the First Information Report filed in Cr.No.101 of 2014 of the Anti Land Grabbing Cell, District Crime Branch, Villupuram.

For Petitioners : Mr.S.S.Madhavan

For Respondent : Mr.C.Emalias,
Addl.Public Prosecutor

ORDER

This petition has been filed to direct the respondent police not to harass the petitioners under the guise of enquiry by virtue of the FIR in Cr.No.101 of 2014.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. Today, when the matter was taken up for hearing, learned Additional Public Prosecutor submitted that on the complaint given by one K.Selvan, the respondent police registered a case in Cr.No.101 of 2014 against M.Srinivasan (the third petitioner herein) and 7 others. The learned Additional Public Prosecutor further submitted that the petitioners 1, 2, 4 and 5 are not accused in Cr.No.101 of 2014.

4. Under such circumstances, this petition is dismissed as against the third petitioner, M.Srinivasan.

5. In view of the above, once a regular FIR has been

registered, the question of 'not to harass' will not arise, because the expression 'harassment' is so subjective that it cannot be encapsulated in an objective criterion. If 'not to harass' order is passed in this case, where a regular FIR has been registered, a notice by the Investigating Officer u/s 41 [a] of Cr.P.C. can also be construed as an harassment. This Court has dealt with this aspect at length and passed a detailed order in the case of Dorand and Others Vs the Superintendent of Police, Nagercoil, Kanyakumari District and another in CrI.O.P.[MD] No.1727 of 2016 decided on 01.02.2016. As regards the petitioners 1, 2, 4 and 5, they are directed to co-operate in the investigation and during the course of investigation, they shall not be harassed. However, if any cognizable offence is made out, this order would not be a shield against the arrest of the accused.

With the above observation, the Criminal Original Petition is disposed of.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police
Anti Land Grabbing Cell,
District Crime Branch,
Villupuram.

2.The Public Prosecutor
High Court,Madras.

+1 cc to Mr.S.S.Madhavan,advocate,sr.60700.

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krd 15/11

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