



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Criminal Original Petition (MD) No.11600 of 2016

Kannan

... Petitioner

vs.

1.The Superintendent of Police
Virudhunagar District
Virudhunagar

2.The Deputy Superintendent of Police
Srivilliputtur
Virudhunagar District

3.The Inspector of Police
Krishnan Kovil Police Station
Virudhunagar District

... Respondents

PRAYER: This petition is filed under Section 482 Cr.P.C to direct the 3rd respondent not to harass the petitioner in the name of investigation / enquiry.

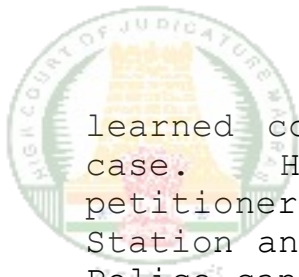
For Petitioner : Mr.G.Marimuthu
For Respondents : Mr.P.Kandasamy
G.A.(Crl.Side)

O R D E R

Petitioner came forward to this Court under Section 482 Cr.P.C., seeking direction to the 3rd respondent, namely, the Inspector of Police, Krishnan Kovil Police Station, Virudhunagar District, that he shall not be harassed.

2. Petitioner is alleged to have murdered his wife. In this connection, a case in Crime No.118 of 2015, under Section 302 I.P.C., has been registered by Krishnan Kovil Police. After investigation, final report has been filed. Now, the murder case is pending in S.C.No.56 of 2016, before the learned Additional Sessions Judge, Mahila Court, Srivilliputtur.

3. The learned counsel for the petitioner submits that a



learned counsel is defending the petitioner in the said murder case. However, the 3rd respondent Police is harassing the petitioner by directing him to frequently come to the Police Station and show his face. It is as against his personal liberty. Police cannot do so.

WEB COPY

4. On the other hand, the learned Government Advocate (Criminal Side) submits that the petitioner is an accused in a murder case. He has killed his wife. His case is pending before the Sessions Court. He has not been harassed by the Police.

5. I have anxiously considered the rival submissions and perused the averments in the petition and the materials on record.

6. In this country, an accused is not less of a human being. Judgments of the Hon'ble Supreme Court in *Sunil Batra I* [AIR 1978 SC 1675], *Sunil Batra II* [AIR 1980 SC 1579], *Joginder Singh* [AIR 1979 SC 339] and *D.K.Basu* [1997 (1) SCC 416] are legion. But, they are observed much in breach than observance. The law in books is different from law in action, more particularly, in the criminal legal system.

7. Eyeing and spying on a citizen without authority of law is totally against one's basic human right enshrined in Article 21 of the Constitution of India. The few lines in the said Article 21 are golden glittering words proclaiming that no one shall be deprived of his life or liberty, except by procedure established by law. The words 'life' and 'liberty' may be simple English words, but they have got lot of meanings. Practically, the human right jurisprudence in India has developed and is being developing out of these two living words.

8. In the instant case, the petitioner is accused of having murdered his wife. Police is on the one side and the petitioner is on the other side before a Sessions Court. Petitioner is entitled to be defended by a Lawyer of his choice, because it is his right under Article 22(1) of the Constitution of India. In such circumstances, the Police has to face him in the Sessions Court and not ask him to face them at the Police Station.. They cannot eye on him or spy on him without any authority of law. Petitioner is a human being. He has got all the rights available to him under Article 21 of the Constitution of India. These rights are not mere rights. They are fundamental rights. They are basic civil rights

9. In this case, the Police says that they did not harass him. It is quite easy for them to say so. The petitioner has given details in his petition and invoked the inherent jurisdiction of the Court. Generally, nobody likes or loves to go to Police Station. Law abiding citizens are entitled to the protection of law. In the circumstances, to secure / restore him



justice, he has rightly invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C.

10. In view of the foregoing, the respondents are directed not to harass the petitioner, because he has been involved in a murder case.

11. Accordingly, this criminal original petition is disposed of.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

krk

To

1.The Superintendent of Police, Virudhunagar District,
@ Virudhunagar.

2.The Deputy Superintendent of Police,
Srivilliputtur, Virudhunagar District.

3.The Inspector of Police, Krishnan Kovil Police Station,
Virudhunagar District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.G.Manimuthu, Advocate Sr.No.36595

GJM/ARK/PV/21.7.16-3p-7c

Crl.O.P. (MD) .No.11600 of 2016
14.07.2016