

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

CrI.O.P.No.20625 of 2017

T.Anbu Kamaraj

... Petitioner

Vs.

1. The Inspector of Police,
Vepery, Chennai 600 007.
2. The Assistant Commissioner of Police,
St. Thomas Mount, Chennai 600 016.
3. The Additional Commissioner of Police,
St.Thomas Mount, Chennai 600 016.
4. The Inspector of Police, (Pallavaram Circle),
S-5, Pallavaram Police Station,
Pallavaram, Chennai 600 043. ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondents not to harass the petitioner.

For petitioner : Mr.V.Raghavachari

For Respondents : Mr.P.Govindarajan
Additional Public Prosecutor.

सत्यमेव जयते
ORDER

It is the grievance of the petitioner that the respondent police have been harassing him under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

2. An enquiry into a non cognizable offence or a cognizable offence is the unfettered powers of the Investigation Officers so long as the power to investigate/enquire into these offences are legitimately exercised within the frame work of Chapter XII of the Code of Criminal Procedure. Though the Code of Criminal Procedure empowers the Magistrate to be a guardian in all the stages of the police investigation, there is no power envisaging

him to interfere with the actual investigation or the mode of investigation. It is in this background that numerous petitions complaining of harassment are being reported and filed before this Court seeking for directions to refrain the police officials from harassing the persons named in a complaint.

3.This Court, exercising its power under Section 482 of the Criminal Procedure Code normally would not interfere with the investigation conducted by a police officer. Nevertheless, it would also not turn a blind eye to instances of harassment by the police under the guise of investigation is brought to its notice.

4.In the present case in hand, the petitioner has complained of harassment by the police based on a complaint and seeks for this Court's intervention by way of a direction. The term 'harassment' by itself has a very wide meaning and hence, what could be harassment to the petitioner may not be the same to the police officer.

5. This court while entertaining "not to harass" original petitions would pass a standard order containing the following directions.

a) While summoning any persons named in the complaint or any witness to the incident complained of, the police officer shall summon such persons through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.

b)The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

c)The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

d)The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to.

6. But on a perusal of the petition averments, this court notes that a civil dispute is also parallelly metamorphosing into a criminal complaint. Shri V.Ragavachari made an acidic remark, yet with a smile, that the police are practicing civil law but without civility. Admittedly, a partition suit is pending between the parties. The petitioner was summoned. He appeared on 15.09.2017. He furnished the relevant information. The matter ought to end there. It is not the case of the respondents that the petitioner has committed any offence. I therefore, allow this petition forbearing the respondents from harassing the petitioner in the guise of an enquiry.

7. In the result, the Criminal Original Petition is allowed.

-s/d-

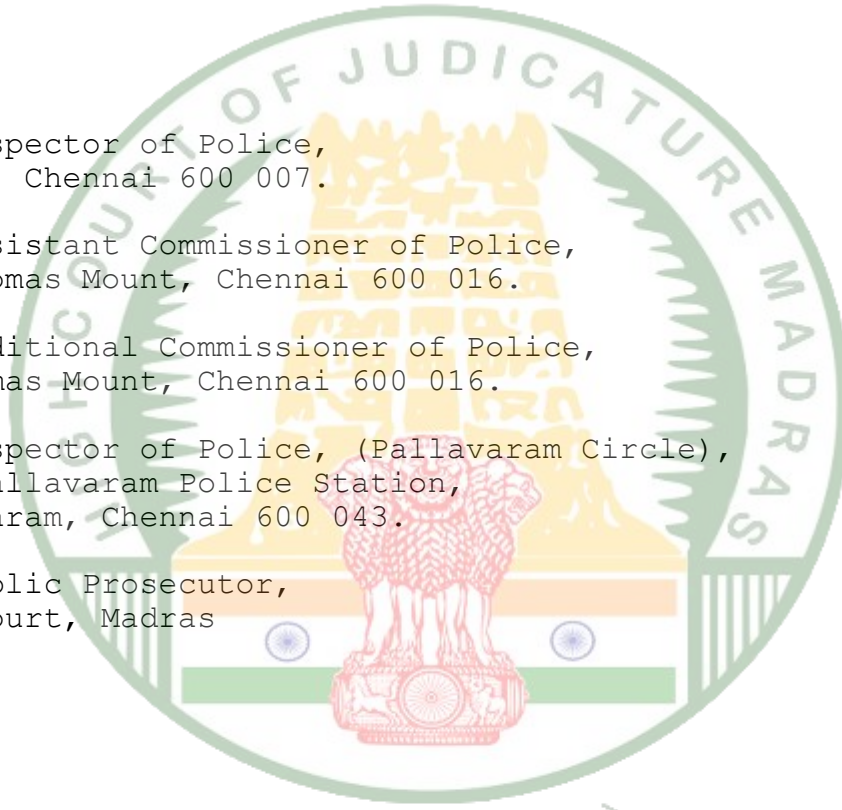
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

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To

1. The Inspector of Police,
Vepery, Chennai 600 007.
2. The Assistant Commissioner of Police,
St. Thomas Mount, Chennai 600 016.
3. The Additional Commissioner of Police,
St. Thomas Mount, Chennai 600 016.
4. The Inspector of Police, (Pallavaram Circle),
S-5, Pallavaram Police Station,
Pallavaram, Chennai 600 043.
5. The Public Prosecutor,
High Court, Madras



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NMI (CO)
SP(22/11/2017)

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