IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.85 of 2018

Nirmal Gupta ..Petitioner

Vs.

1. The Commissioner of Police,
   Chennai City,
   Vepery, Chennai - 600 007.

2. The Inspector of Police (L & O)
   Elephant Gate Police Station,
   Chennai. ..Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondents not to harass the petitioner without due processes of law to secure the ends of justice.

For Petitioner : Mr.P.Ramraj

For Respondents : Mrs.P.Kritika Kamal
Government Advocate (Crl. Side)

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

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

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.In order to circumvent such situations, the following guidelines are issued:

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.With the above observations and direction, the Criminal Original Petition stands allowed.

WEB COPY

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rna

https://hcservices.ecourts.gov.in/hcservices/

To

1. The Commissioner of Police,
   Chennai City,
   Vepery, Chennai - 600 007.

2. The Inspector of Police (L & O)
   Elephant Gate Police Station,
   Chennai.

3. The Public Prosecutor,
   High Court, Madras.

Crl.O.P.No.85 of 2018

RV(CO)
CS/08/02/18

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/