IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No. 5919 of 2018

1.C.Jayaraj
2.J.Cicilia .. Petitioners

Vs.

1.The Inspector of Police,(Crime)
P-6 Kodungaiyur Police Station,
Kodungaiyur,
Chennai-600118.

2.E.Shiva Shankar .. Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the 1st respondent not to harass the petitioners under the guise of enquiry.

For Petitioner : Mr.SR.Ravindra Ram

For Respondents : Mr.C. Raghavan
Government Advocate(Crl.Side) - R1

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O R D E R

It is the grievance of the petitioners that the 1st respondent police has been harassing them under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

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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 petitioners have 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.

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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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector of Police,(Crime)
   P-6 Kodungaiyur Police Station,
   Kodungaiyur,
   Chennai-600118.

2. The Public Prosecutor,
   High Court, Madras.

+1 CC to Mr.SR.Ravindra Ram, Advocate Sr.No.14657

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