

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.1256 of 2018

M.S.Niranjhan

.. Petitioner

Vs.

The State rep. by

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

2. The Inspector of Police,  
E-1, Mylapore Police Station,  
Kutchery Road,  
Mylapore, Chennai.

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondents police not to harass the petitioner from peacefully enjoying his property bearing **Flat No.\*1A**, Vishwakamal Apartments, No.25,R.K. Mutt Road, Mylapore, Chennai under the guise of enquiry.

For Petitioner : M/s. S.P. Arthi

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

O R D E R

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.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.

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dt.12.1.2018

Being mentioned

The matter having been listed on 30/01/2018 for being mentioned in pursuance of order dated 12/1/2018 and made herein and in the presence of the Ms.S.P.Aarthi, Advocate for petitioner and of Mrs.Kritikakamal, Government Advocate appearing for the respondent the Court made the following order:-

Today, this Criminal Original Petition is listed under the caption 'for being mentioned' at the instance of the learned counsel for the petitioner.

2.As per the memo dated 25.01.2018 filed by the petitioner, wherever the word "**Flat No.2**" occurs in the earlier order of this Court dated 13.01.2018 in CrI.OP.No.1256 of 2018 shall be

deleted. The same shall be substituted with "**Flat No.1A**".

3.All other observations made in the said order shall remain intact. The memo filed by the petitioner dated 25.01.2018 is recorded.

dh

dt.30.1.2018

Sd/-

Assistant Registrar(J)

dt.29.1.2018

\*Corrected as per order of this  
Court, dated 30.1.2018 made in  
Crl.OP.No.1256/2018

Sd/-

Assistant Registrar(CS VI)

dt.5.2.2018

//True Copy//

Sub Assistant Registrar

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To

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

2. The Inspector of Police,  
E-1, Mylapore Police Station,  
Kutchery Road,  
Mylapore, Chennai.

3.The Public Prosecutor,  
High Court, Madras.

+1cc to M/s.S.P.Arthi, Advocate Sr.No.2652

KAN(CO)

sm:5.2.2018

Crl.O.P.No.1256 of 2018