

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.11.2018

CORAM
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.26543 of 2018

Kalaivanan

...Petitioner

Vs.

1.The Inspector of Police,
P2, Otteri Police Station,
Chennai 600 012,
Cr.No.1807/2016.

2.Mrs Krishnaveni

3.Mr.Prakash Chand Jain

4.Mrs.Mamtha A.Mutha

5.Mr.Mukesh Kumar Jain

...Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to pass an order to the first respondent herein not to harass the petitioner under guise of enquiry on the summon dated 28.10.2018 under Sections 160 and 91 Cr.P.C.

For Petitioner : Mr.Ravindra Ram
For Respondent : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to pass an order to the first respondent herein not to harass the petitioner under guise of enquiry on the summon dated 28.10.2018 under Sections 160 and 91 Cr.P.C.

2.The learned counsel for the petitioner would submit that the defacto complainant lodged a complaint against the petitioner before the respondent and the same is pending. Pursuant to the same, the 1st respondent issued summons under Sections 160 and 91 of Cr.P.C. to the petitioner.

3. Heard learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent.

3.The learned Additional Public Prosecutor appearing for the respondent Police submits that on the complaint against the petitioner, petition enquiry is pending before the respondent police.

4.The petitioner is directed to co-operate with the police for enquiry and at the time of conducting of the enquiry, the petitioner shall not be harassed by the police. The police cannot call the petitioner on a regular basis in the guise of enquiry without even registering an FIR and Supreme Court of India in Lalitha Kumari Vs. Government of Uttar Pradesh reported in 2013 (6) CTC 353 has enumerated the nature of cases where preliminary enquiry can be conducted and has also restricted the period, for which preliminary enquiry can be conducted. During the course of enquiry, if any cognizable offence is made out, third respondent is free to register an FIR and this order shall not be a shield for the petitioner against the respondent proceeding to take action in accordance with law.

5.With the above direction, this Criminal Original Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kal/sbn

To

1.The Inspector of Police,
P2, Otteri Police Station,
Chennai 600 012,
Cr.No.1807/2016.

2.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.R.Ravindra Ram, Advocate, S.R.No.78207

CRL.O.P.No.26543 of 2018

rrs 07/12/2018