



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WEB COPY

Crl.O.P (MD).No.13548 of 2018

1. Raja @ Thermal Raja
2. Fathima Babu
(suo motu impleaded as 2nd petitioner) Petitioners

Vs.

1.State rep. by
The Superintendant of Police,
Thoothukudi District.
2.The Inspector of Police,
South Police Station,
Thoothukudi District. . . . Respondents

Prayer: This petition is filed under Section 482 Cr.P.C to direct the respondent Nos. 1 and 2 not to harass the petitioner and others in the guise of enquiry Anti Sterlite agitation and consequently, direct the respondent not to violate the fundamental rights of the petitioner and others in engaging protest and submitting grievance to the authorities concerned in accordance with law in the matter of Anti Sterlite Industry issue.

For Petitioner : Mr.Henri Tiphagne
For respondents : Mr.Chellapandian
Additional Advocate General
assisted by Mr.A.Robinson
Government Advocate (Crl.Side)

ORDER

This petition has been filed for issuing a direction to the respondent Nos. 1 and 2 not to harass the petitioner and others in the guise of enquiry Anti Sterlite agitation and consequently, direct the respondents not to violate the fundamental rights of the petitioner and others in engaging protest and submitting grievance to the authorities concerned in accordance with law in the matter of Anti Sterlite Industry issue.

2. Ms.Fatima Babu, D/o. M.G. Rodriguez, No.77, Periyakadai Street, Thoothukudi - 628 001 is suo-motu added as second petitioner in this Criminal Original Petition.



3. I have heard the learned counsel appearing for the petitioners and the learned Additional Advocate General appearing for the respondents.

4. It is not in dispute that the the petitioners herein are figuring as accused in a case or two in connection with the Anti Sterlite protest. In that, the petitioners have been granted anticipatory bail by this Court. This Court made it clear that if the petitioners are to be implicated in any other case as accused they will have to be given notice under Section 41(A) Cr.P.C., so that they will have breathing time to move this Court for anticipatory bail.

5. The grievance expressed by the learned counsel appearing for the petitioners is that the petitioners are being vexed with summons under Section 160 and 91 Cr.P.C.,.

6. The learned Additional Advocate General appearing for the prosecution submitted that the Police has statutory power and authority under both the provisions to enquire any person, who is acquainted with the offence in question, which is under investigation by the concerned Investigating Officer.

7. This Court is of the view that in the guise of exercising the said power, the witness cannot be vexed and harassed. If the witness concerned is a woman or an elderly person it is the police who have to go to the witnesses and elicit the information. In the present case, the learned Additional Advocate General agreed that the petitioners herein can appear before the Tuticorin South Police Station on 01.08.2018 at 11.00 a.m. It is made clear that the petitioners shall not be summoned again and the police will have to conduct a comprehensive enquiry on the same date and conclude the enquiry as far as the petitioners are concerned. Likewise, the Sipcot Police Station will examine the petitioners herein under Section 160 Cr.P.C., on the same date i.e on 01.08.2018 at 5.00 p.m. The Sipcot Police is also strictly directed to conclude the enquiry on the same day. Both the South Police Station and Sipcot Police Station, Tuticorin shall not call the petitioners again in connection with the Anti Sterlite occurrence that have taken place on 22.05.2018 or 23.05.2018.

8. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)



To

1.The Superintendent of Police,
Thoothukudi District.

2.The Inspector of Police,
South Police Station,
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench Of Madras High Court,
Madurai.

+1CC to Mr.R.Karunanidhi Advocate in SR.No.75775.

TRP

DS/SKN/SAR-1 : 01.08.2018: 3P/5C

Cr1.O.P(MD).No.13548 of 2018
30.07.2018