

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2576 of 2019

Sherin Aatika

...Petitioner

Vs.

The Deputy Commissioner,
Commissioner of GST Central Excise,
Preventive Unit,
6/A, A.T.D Street,
Race Course Road,
Coimbatore.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondent not to harass the petitioner in the name of enquiry.

For Petitioner : Mr.V.Elangovan
For Respondent : Mr.N.P.Kumar
Special Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the respondent not to harass the petitioner in the name of enquiry.

2. Heard learned counsel appearing for the petitioner and learned Special Public Prosecutor for the respondent.

3. The learned Special Public Prosecutor appearing for the respondent Department submits that based on the complaint against the petitioner, the petition enquiry is pending in C.No.IV/06/97/2018-HPU-GR-II, on the file of the respondent.

4. The Counter affidavit has also been filed to the effect that the petitioner has to be enquired in a pending case and the petitioner did not appear even once, inspite of repeated summons sent to the petitioner.

5. The petitioner is directed to cooperate with the Department for enquiry and at the time of conducting of the enquiry, the petitioner shall not be harassed by the respondent.

The respondent 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 directions, the Criminal Original Petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

vv2/rka

To

1. The Deputy Commissioner,
Commissioner of GST Central Excise,
Preventive Unit,
6/A, A.T.D Street,
Race Course Road,
Coimbatore.

2. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.V.Elangovan, Advocate sr 8035.

सत्यमेव जयते

Cr1.O.P.No.2576 of 2019

KAN (CO)
SP (01/02/2019)

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