

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6820 of 2019

1.B.Subbiah
2.B.Prakash

...Petitioners

Vs.

1.The Superintendent of Police
Office of the Superintendent of Police
Nagapattinam District

2.The Inspector of Police
Vedaranyam Police Station
Nagapattinam District

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the respondents not to harass the petitioners.

For Petitioner : Mr.N.Praghasam

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

O R D E R

This Criminal Original Petition has been filed by the petitioners to direct the respondents not to harass the petitioners.

2.The learned counsel appearing for the petitioners would submit that the respondent police harassed the petitioners under the guise of enquiry.

3.The learned Government Advocate (Crl. Side) appearing for the respondents would submit that on the complaint given by the defacto complainants against the petitioners, petition enquiry is pending in C.S.R.No.55 of 2019 on the file of the respondent police.

4. Heard the learned Counsel for the petitioners and learned Government Advocate for the respondents.

5. It is the grievance of the petitioners that the respondent police have 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.

6. 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.

7. This Court, while 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.

8. In the present case in hand, the petitioners have complained of harassment by the police based on a complaint and seek 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 petitioners may not be the same to the police officer.

9. In order to circumvent such situations, the following guidelines are issued:

a) While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person 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.

10.With the above observations and direction, the Criminal
Original Petition stands disposed of.
kas

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Superintendent of Police
Office of the Superintendent of Police
Nagapattinam District

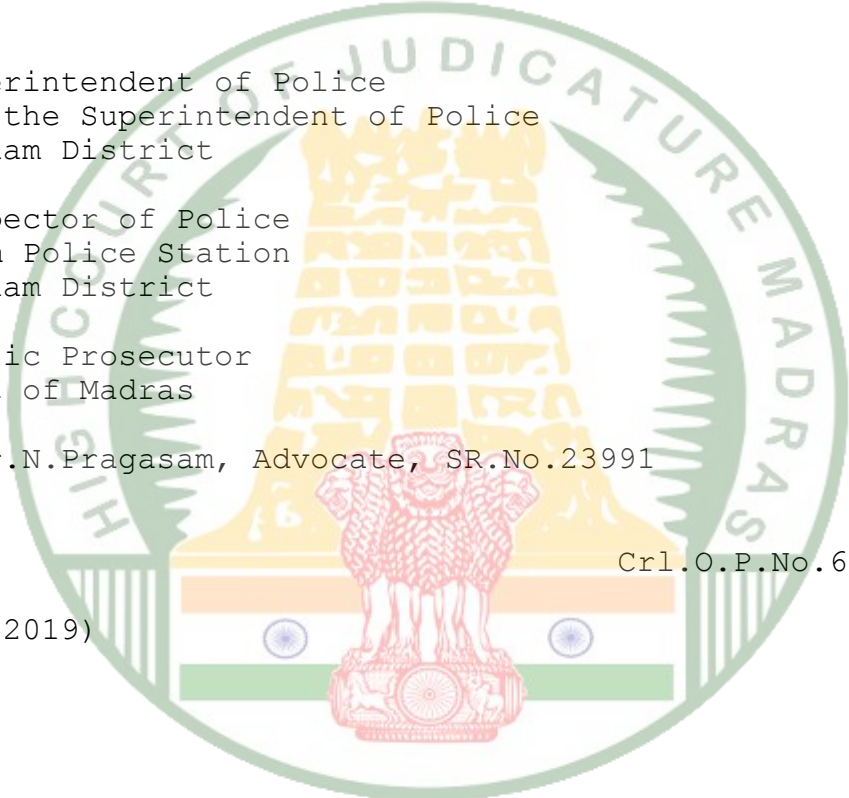
2.The Inspector of Police
Vedaranyam Police Station
Nagapattinam District

3.The Public Prosecutor
High Court of Madras

+1cc to Mr.N.Pragasam, Advocate, SR.No.23991

Cr1.O.P.No.6820 of 2019

Kak(26/04/2019)

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. Below the lion is a red wheel. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the emblem. At the bottom, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

WEB COPY