

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:28.03.2019
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.7502 of 2019

Namitha Jose

...Petitioners

Vs.

1.The Deputy Commissioner of Police
St. Thomas Mount, Chennai

2.The Inspector
S-3, Meenabakkam Police Station
Chennai

3.Jose Hormese

...Respondents

PRAYER: Criminal Original Petition filed under
Section 482 Cr.P.C. to direct the 2nd respondent not to
harass the petitioner under the guise of enquiry for the
complaint given by the 3rd respondent.

For Petitioner : Ms.P.Uma

For Respondents: Mr.C.Raghavan for R1 & 2
Government Advocate (Cr1. Side)

ORDER

This Criminal Original Petition has been filed by
the petitioner to direct the 2nd respondent not to harass
the petitioner under the guise of enquiry for the
complaint given by the 3rd respondent.

2.The learned counsel appearing for the petitioner
would submit that the 2nd respondent police is threatening
the petitioner that they are going to arrest her. The
petitioner and her 7 years child is running for help to
get shelter from the harassment of police. The 2nd
respondent instead of protecting Law and Order,
supporting the illegal ways adopted by the 3rd respondent
to get divorce from the petitioner without paying any
maintenance. Hence, the present petitioner.

3.The learned Government Advocate (Cr1. Side)
appearing for the respondent police would submit that on
the complaint given by the defacto complainant against
the petitioner, petition enquiry is pending in

C.S.R.No.64 of 2019 on the file of the respondent police.

4.Heard the learned Counsel for the petitioner and learned Government Advocate (Crl. Side) for the respondent police.

5.It is the grievance of the petitioner that the respondent police have been harassing her 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, 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 petitioner has 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.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner of Police
St. Thomas Mount, Chennai

2.The Inspector
S-3, Meenabakkam Police Station
Chennai

3.The Public Prosecutor
High Court, Madras

+1cc to Mr.P.Uma, Advocate SR.No. 29983

Cr1.O.P.No.7502 of 2019

gj (CO)
A.SK(22/04/2019)

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