

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.17165 of 2019
and W.M.P.Nos.16712 & 16713 of 2019

1. V.Harish

2. V.Sivakumar

... Petitioners

-Vs-

1. The Commissioner of Police,
O/o. Commissioner of Police,
Egmore,
Chennai District.

2. The Assistant Commissioner,
IUCAW,
Veppery,
Chennai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the 2nd respondent from harassing the petitioners under the guise of enquiry, and thereby interfering with the civil dispute between the petitioners and the Said Dr.Thangadurai in respect of the money transactions, pursuance to the summons issued on 24.05.2019.

For Petitioners : Mr.S.Rajmakesh

For Respondents : Mr.M.Mohamed Riyaz

Additional Public prosecutor

ORDER

This Criminal Original Petition has been filed seeking for a direction to the second respondent police not to harass the petitioners or his family members under the guise of enquiry.

2.Heard learned Counsel for the petitioners and learned Additional Public Prosecutor for the respondents.

3.The learned Additional Public Prosecutor appearing for the respondent police submits that based on the complaint given by the defacto complainant against the petitioners, petition enquiry is pending in C.No.153 of 2019 on the file of the second respondent police.

4.The petitioners are directed to cooperate with the police for enquiry and at the time of conducting of the enquiry, the petitioners shall not be harassed by the police. The police cannot call the petitioners 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, second respondent is free to register an FIR and this order shall not be a shield for the petitioners against the respondent proceeding to take action in accordance with law.

5.With the above directions, the Writ Petition is closed. Consequently, connected miscellaneous petitions are close. No Costs.

Sd/-

Assistant Registrar(imp cell)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Commissioner of Police,
O/o. Commissioner of Police,
Egmore,
Chennai District.

2. The Assistant Commissioner,
IUCAW,
Veppery,
Chennai District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. .S.Rajmakesh, Advocate SR.No. 49946

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A.SK(05/07/2019)