

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.24415 of 2019

1. Hitesh Kumar Jain
2. Rajesh Kumar Jain

... Petitioners

Vs.

1. The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 600 007.

2. The Deputy Commissioner of Police
Kilpauk Range, Kilpauk
Chennai - 600 010.

3. Tmt.Dhanalakshmi

4. Shiv Rattan Khanna

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the 3rd respondent not to harass the petitioners in any manner under the guise of enquiry at the instigation of the 4th respondent without due process of law.

For Petitioners: Mr.M.Fazulul Haq
for M/s. Juris and Justia

For Respondents: Mr.C.Iyyapparaj
R1 & R2 Additional Public Prosecutor

ORDER

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.

2.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.

3.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.

4. It is seen that in some cases, the investigation pending before the Police has been stayed by Court orders. It is needless to point out that in cases of this nature, the respondent Police will not be entitled to even proceed with the investigation and therefore, the petitioners may not have an apprehension of harassment in the hands of the Police.

5.In the present case in hand, the petitioners have complained of harassment by the police based on a complaint and seeks 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.

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

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

7. With the above observations and direction, the Criminal Original Petition stands ordered.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 600 007.

2. The Deputy Commissioner of Police
Kilpauk Range, Kilpauk
Chennai - 600 010.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Juris & Justin, Advocate Sr.77863

Cr1.O.P.No.24415 of 2019

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srg 23/10/2019

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