

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Crl.O.P.No.24455 of 2019

and

Crl.MP.No.12957 of 2019

Hemavathi

...Petitioner

Vs.

The State of Tamilnadu, rep.by
Inspector of Police,
Central Crime Branch II,
Team No.24, Vapery,
Chennai 600 007.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Crl.P.C, to call for the records pertaining to the Police Department Notice, bearing No.C.No.1098/Camp/ALGSC.PP/19 dated 27.08.2019 issued by the respondent and quash the same.

For Petitioner : Mr.G.Balasubramanian

For Respondents : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

In connection with the complaint, a notice of enquiry has been issued on 27.08.2019, which has been challenged by the petitioner.

2.Learned counsel for the petitioner would submit that, earlier the same notice was issued on 05.08.2019, which came to be challenged by him in Crl.OP.No.22174 of 2019. When that petition was taken up by this Court on 20.08.2019, the learned Additional Public Prosecutor had submitted that Police are not insisting for the presence of the petitioner.

3.Learned counsel further submitted that even during the course of earlier enquiry, the petitioner had submitted all the required documents and hence, the presence of the petitioner for enquiry is unwarranted.

4.Learned Additional Public Prosecutor would also submit that during the course of the earlier enquiry, the presence was not required, but, however, the petitioner's presence is required for the instant case.

5.The notice under challenge is only in the nature of summons calling upon for the enquiry. If at all, the petitioner is not in any event liable for the allegations made in the complaint, it is always open to the petitioner to put-forth the same before the Enquiry Officer. As such challenging, the notice of enquiry may not be proper.

6.The other contention made is that under the guise of enquiry, the respondent/police may harass the petitioner. It is needles to point out that during the course of the enquiry, such a harassment cannot be made and this Court had passed various orders reiterating this aspects. In one such order passed in CrI.O.P.No.23171 of 2019 dated 12.09.2019, the following yardsticks were given for the Investigating Officers to adopt, during the course of enquiry, which reads as follows:-

"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.In the light of the above observations, this Court is of the view that no interference is required to quash the notice of enquiry. On the other hand, the petitioner shall appear before the respondent in connection with the summons, at least within, one week from the date of receipt of a copy of this order.

8.With the above observations, this Criminal Original Petition is closed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

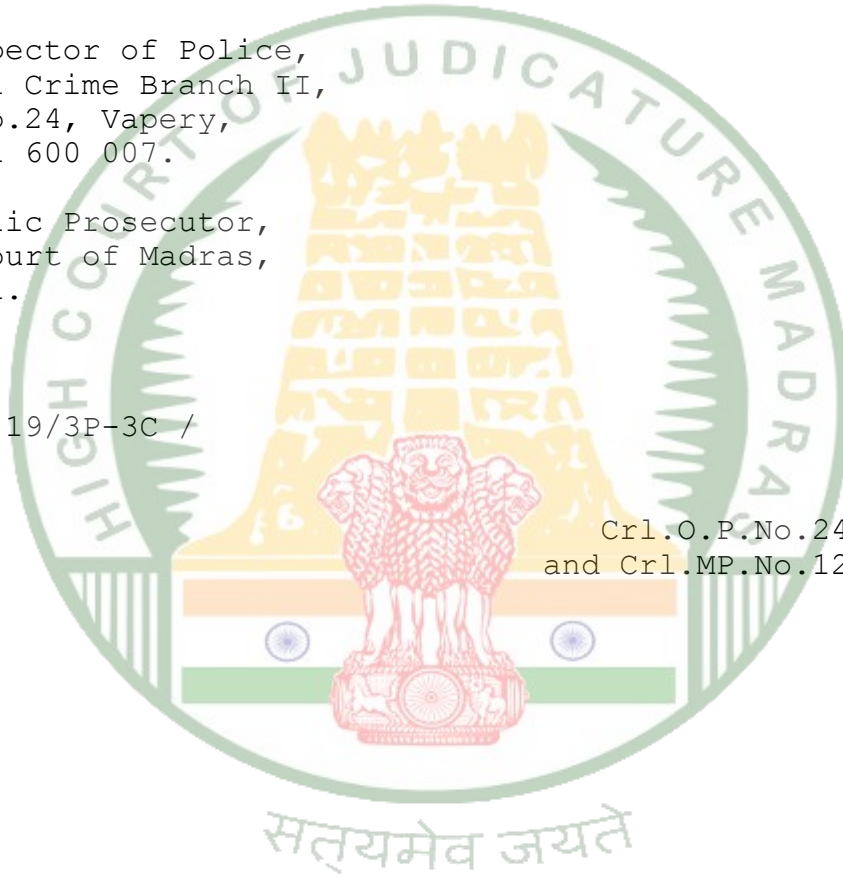
To

1.The Inspector of Police,
Central Crime Branch II,
Team No.24, Vapery,
Chennai 600 007.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

AKM/17.10.19/3P-3C /

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