IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.30549 of 2019

D.Kasthuri .. Petitioner

Vs.

1.The Inspector of Police,
Team - V,
Central Crime Branch,
Vepery, Chennai.

2.The Inspector of Police,
T1, Ambattur Police Station,
Ambattur, Thiruvallur.

3.Jagadesj @ Ravikumar
4.Venkadesan
5.R.Balaji
6.Suganya
7.Murugan
8.Sekar
9.Thanigasalam
10.Murugan
11.Selvi
12.Parvathy
13.Mohan
14.Vijayalakshmi
15.Sangeetha
16.Vasanthi
17.Vijayalakshmi
18.Lakshmi
19.Sundari
20.Yuvaraj
21.Vimalraj
22.Geetha
23.Thulasi
24.Hemalatha
25.Nithyanadham
26.Mohana Sundharam
27.Selvi
28.Kanniyammal
29.Kandan .. Respondents

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PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the 1st and 2nd respondent not to harass the petitioner till 1st and 2nd respondent taking steps to recover money from 3rd and 4th respondents and to hand over recovered money to 5th to 29th respondents based on FIR No.329 of 2018 dated 30.07.2018.

For Petitioners : Mr.V.Gomathy

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

ORDER

It is the grievance of the petitioner that the respondent police have been harassing him 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 petitioner may not have an apprehension of harassment in the hands of the Police.

5.In the present case in hand, the petitioner has complained of harassment by the police based on a complaint

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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 petitioner 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 allowed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

jas/ssr

To
1.The Inspector of Police,
Team - V, Central Crime Branch,
Vepery, Chennai.

2.The Inspector of Police,
T1, Ambattur Police Station,
Ambattur, Thiruvallur.

3.The Public Prosecutor,
High Court, Madras.

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CB(05/12/2019)

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