

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Cr1.O.P.No.25410 of 2019

Rayees Ahmed

... Petitioner

Vs.

1.The Assistant Commissioner of GST & Central Excise,
Technical, Vellore Division,
Central Revenue Buildings, Officers Line,
Vellore - 632001

2. Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, Adarsh Towers,
G.N.Chetty Road,
T.Nagar, Chennai - 600017.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482
Cr.P.C. praying to direct the respondents not to harass the
petitioner in the guise of enquiry and also the presence of a
lawyer within the distance of the eye and beyond the hearing
distance from the place of pending enquiry.

For Petitioner :Mr.Siddharth

For Respondents :Mr.N.P.Kumar
Special Public Prosecutor for R1.
Mr.A.P.Srinivas
Senior Standing Counsel for 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 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(CS V)

//True Copy//

Sub Assistant Registrar

sbn/msv

To

1.The Assistant Commissioner of GST & Central Excise,
Technical, Vellore Division,
Central Revenue Buildings, Officers Line,
Vellore - 632001.

2. Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, Adarsh Towers,
G.N.Chetty Road,
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+1cc to Mr.Siddharth, Advocate Sr.81328

Cr1.O.P.No.25410 of 2019

pvs[col]
srg 07/11/2019

सत्यमेव जयते

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