

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.28206 of 2019

M/s.Monotech Systems Ltd.,
Represented by its Managing Director
Mr.T.P.Jain,
Registered Office at No.66,
3rd Floor, City Centre,
Thirumalai Road, T.Nagar,
Chennai - 600017.

...Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.
2. The Deputy Commissioner of Police,
Anna Nagar District,
Anna Nagar, Chennai - 600040.
3. The Assistant Commissioner of Police,
Anna Nagar, Chennai - 600040.
4. Mr.Prasad

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 not to harass the petitioner in the name of enquiry based on the false complaint preferred by the 4th respondent unless with due process established by law.

For Petitioner : Mr.M.Abdul Razack

For Respondents : Mr.C.Iyyapparaj, APP
for R1 to R3

Mr.K.V.Babu
for R4

O R D E R

With the consent of both the counsels, the Writ Petition is taken up for final disposal.

2. The dispute between the petitioner and the 4th respondent seems to be in connection with sale of a machine, which was imported by the 4th respondent and that the petitioner herein had not exercised the duty of maintenance during the period of warranty.

3. In this connection, it is claimed that the 4th respondent had given a complaint to the respondent police and that in the guise of enquiry on the complaint, the respondent police has been harassing the petitioner. Hence, the present writ petition has been filed.

4. This Court, in various orders, have held that such harassment should not be extended in the guise of enquiry. The guidelines issued in such orders were to the following effect:-

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.

5. It is needless to point out that whenever a complaint of this nature is made to the concerned police and the police are of the view that the enquiry should be conducted in order to ascertain as to whether any non-cognisable offences are made out or not, they are at liberty to proceed with the enquiry. Nevertheless, during the course of such enquiry, the respondent police shall adhere to the aforesaid guidelines extracted.

6. With the above observations, the Writ Petition stands closed. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600007.
2. The Deputy Commissioner of Police,
Anna Nagar District,
Anna Nagar, Chennai - 600040.
3. The Assistant Commissioner of Police,
Anna Nagar, Chennai - 600040.
4. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.K.V.Babu, Advocate sr.81826

+1cc to Mr.M.Abdul Razack, Advocate sr.81774

सत्यमेव जयते

W.P.No.28206 of 2019

ssd(co)
nr 22/10/2019

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