



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.(MD)No.4384 of 2019

1.A.Anantha Ramasubramanian

2.A.Anantha Srinivasan

... Petitioners

/Vs./

1.The Commissioner of Police,
O/o. The Commissioner of Police,
Madurai District.

2.The Inspector of Police,
Karimedu Police Station, Madurai.

3.Zahir

... Respondents

Prayer: Petition - filed under Section 482 of the Criminal Procedure Code, to direct the respondents 1 and 2 not to harass the petitioners without any legally sustainable complaint and to direct the respondents to follow the guideline issued by the Hon'ble Supreme Court in D.K.Basu (1997 1 SCC 416) case in matters pertaining to arrest or interrogation.

For Petitioners : Mr.K.C.Maniyarasan

For R-1 & R-2 : Mr.V.Neelkandan

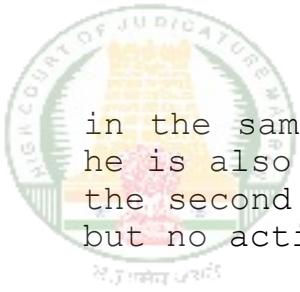
Additional Public Prosecutor

ORDER

This petition is filed to direct the respondents no.1 and 2 not to harass the petitioners without any legally sustainable complaint and to direct the respondents to follow the guideline issued by the Hon'ble Supreme Court in D.K.Basu (1997 1 SCC 416) case in matters pertaining to arrest or interrogation.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor.

3. The learned counsel appearing for the petitioners submitted that the third respondent and several others have paid money to a certain Renganathan on latter promising job for them, but Renganathan cheated all those who have paid money. So far as the second petitioner is concerned, he made the payment to secure a job for his son, the first petitioner herein. But, the second respondent, at the instance of the third respondent, is harassing the second petitioner to pay the money. The second petitioner sails



in the same boat in which the third respondent is also sailing, as he is also a victim of Renganathan's fraud. He also added that even the second petitioner has preferred a complaint against Renganathan, but no action presumably appears to have been taken on the same.

4. The learned Additional Public Prosecutor on instructions submitted that a complaint given by the third respondent is pending in C.S.R.No.129 of 2019. During enquiry, only the second respondent participated, he had paid a sum of Rs.1.5 lakhs to the third respondent and agreed to pay the balance amount before 31.03.2019. The respondent police have neither harassed the petitioner nor intended to harass him. The statement of the learned Additional Public Prosecutor is recorded.

5. To this, the learned counsel appearing for the petitioner would respond that the entire payment was made under duress and not independently made.

6. Without going into the blame game which the parties appeared to enter into, it must be emphasized that if a complaint discloses commission of any cognizable offence, the job of the police is to proceed on the basis of the judgment reported in **2013 (6) CTC 353 [Lalitha Kumari Vs. Government of Uttar Pradesh]**. If however, the concerned investigating officer contemplates to hold any preliminary enquiry / interrogation, which is not strictly provided under the code, interrogation / enquiry can be made on summons under Section 41 A Cr.P.C.

7. In our jurisprudence, the role of the police is defined and they are not expected to over-stretch it and enter into the area not earmarked for them under the Code. If the statement of the petitioner's counsel and the learned Additional Public Prosecutor is taken and read together, consequent inference that gets projected is exactly this. This Court, therefore, directs the second respondent to step away, unless commission of any cognizable offence is disclosed on the face of the complaint. There shall not be any harassment at any stage of either pre- or during investigation of the registration of the case. Accordingly, this criminal original petition is disposed of.

Sd/-

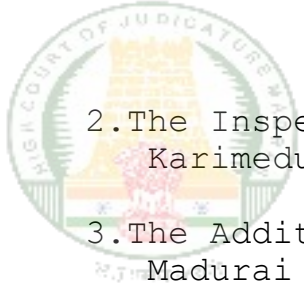
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Commissioner of Police,
O/o. The Commissioner of Police,
<https://hcservices.ecourts.gov.in/hcservices/>,
Madurai District.



2.The Inspector of Police,
Karimedu Police Station, Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.C.Maniyarasan, Advocate, SR.No.56520

CrI.O.P.(MD)No.4384 of 2019

SP/27.04.2019/3P/5C

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