



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2019

CORAM:

THE HONOURABLE **MR. JUSTICE N. SESHASAYEE**

Crl.O.P. (MD) No. 4901 of 2019

WEB COPY

Dr.N.Basupathi

... Petitioner/ Aggrieved Person
/Vs./

1.The Commissioner of Police,
Madurai City.

2.The Inspector of Police,
All Women Police Station,
hallakulam, Madurai City.

3.Dr.Nagalakshmi

... Respondents / Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C to direct the 2nd respondent not to harass the petitioner in the name of holding an enquiry.

For Petitioner

: Mr.R.Anand

For R-1 & R-2

: Mr.V.Neelakandan

Additional Public Prosecutor

For R-3

: Mr.Sathiaraj

ORDER

This Criminal Original Petition has been filed to direct the 2nd respondent not to harass the petitioner in the name of holding an enquiry.

2. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the third respondent and the learned Additional Public Prosecutor.

3. The learned counsel appearing for the petitioner submitted that the petitioner faces harassment at the hands of the second respondent, based on a complaint preferred by his wife, the third respondent herein.

4. The learned counsel appearing for the third respondent submitted that there are some strong matrimonial differences and on the allegation of physical cruelty, the third respondent was constrained to prefer a complaint.

5. The learned Additional Public Prosecutor submitted that the complaint preferred by the third respondent is pending preliminary enquiry, that summon served on the petitioner was not responded to by the petitioner. He added that the respondent police have neither harassed the petitioner nor intended to harass him.



6. The Statement of the learned Additional Public Prosecutor is recorded. Without getting into allegations and counter allegations and whether summon was served on the petitioner or not, if the complaint discloses *prima facie* commission of any cognizable offence, necessarily the investigating Agency should follow the principles in the judgment reported in **2013 (6) CTC 353 [Lalitha Kumari Vs. Government of Uttar Pradesh]**. If on the other hand the second respondent considers that it is necessary to hold any preliminary enquiry / interrogation considering the fact that the difference between the parties herein is essentially born out of matrimonial causes, the same shall be done only on summons under Section 41 A Cr.P.C., mentioning a specific date and time for enquiry and also giving reasonable time for him to travel to the venue of such enquiry. The petitioner is also directed to co-operate with the enquiry. During enquiry, there shall not be harassment to the petitioner.

7. Accordingly, this criminal original petition is disposed of.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Commissioner of Police,
Madurai City.
2. The Inspector of Police,
All Women Police Station,
hallakulam, Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.MANOCHARAN, Advocate, SR.No.59023
+1cc to Mr.R.Anand, Advocate, SR.No. 59092

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