



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.10933 of 2019

WEB COPY

1.Balamurugan
2.Venkatesan

...petitioners

-Vs-

1.The Superintendent of Police,
Theni, Theni District.

2.The Deputy Superintendent of Police,
Economic Offence Wing,
Dindigul, Dindigul District.

3.The Deputy Superintendent of Police,
District Crime Branch,
Theni, Theni District.

4.The Inspector of Police,
District Crime Branch,
Theni, Theni District.

5.The Inspector of Police,
Rayappanpatti Police Station,
Rayappanpatti, Theni District.

6.Elangovan

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the 3rd and 4th respondents not to harass the petitioners and their family members under the guise of enquiry on the basis of the petitioners' representation dated 29.07.2019.

For petitionerss	: Mr.S.Muthukumar
For R1 to R5	: Mr.R.Anandharaj
	Additional Public Prosecutor

O R D E R

This Criminal Original petition has been filed to direct the 3rd and 4th respondents not to harass the petitioners and their family members under the guise of enquiry on the basis of the petitioner's representation dated 29.07.2019.



2.The learned counsel appearing for the petitioners would submit that the respondent police harassed the petitioners and their family members under the guise of enquiry.

3.The learned Additional Public Prosecutor appearing for the respondent police would submit that on the complaint given by the third respondent against the petitioners, petition enquiry is pending before the respondent police.

4.Heard the learned Counsel for the petitioners and the learned Additional Public Prosecutor for the respondent police.

5.It is the grievance of the petitioners that the respondent police have been harassing them under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

6.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.

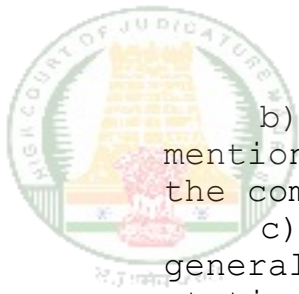
7.This Court, exercising its power under Section 482 of the Criminal Procedure Code normally would not interfere with the investigation conducted by a police officer. Nevertheless, it would also not turn a blind eye to instances of harassment by the police under the guise of investigation is brought to its notice.

8.In the present case in hand, the petitioners have complained of harassment by the police based on a complaint and seek 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 petitioners may not be the same to the police officer.

9.In order to circumvent such situations, the following guidelines are issued:

a)While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an

<https://hcservices.ecourts.gov.in/hcservices> investigation.



b) The respondent police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant.

c) The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

d) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

e) 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.

10. With the above observations and direction, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

sjj

To

1. The Superintendent of Police,
Theni, Theni District.

2. The Deputy Superintendent of Police,
Economic Offence Wing,
Dindigul, Dindigul District.

3. The Deputy Superintendent of Police,
District Crime Branch,
Theni, Theni District.

4. The Inspector of Police,
District Crime Branch,
Theni, Theni District.

5. The Inspector of Police,
Rayappanpatti Police Station,
Rayappanpatti, Theni District.

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



+1 CC to Mr.S.MUTHUKUMAR, Advocate (SR-99485[F] dated 19/11/2019)

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