



BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.12082 of 2019

WEB COPY

S. Ravichandran

... Petitioner

Vs.

1.The Superintendent of Police
Theni, Theni District.

2.The Inspector of Police
Mayiladumparai Police Station,
Theni District
(in Crime No.370 of 2017)

3.The Inspector of Police
All Women Police Station,
Andipatti, Theni District.

...Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 3rd respondent police Not to Harass the petitioner in Crime No.370 of 2017 on the file of the Inspector of Police, Mayiladumparai Police Station, Theni district and now transferred to the 3rd respondent without adhering to the mandatory provision of law contemplated under Section 41A of Criminal Procedure Code, 2009.

For Petitioner : Mr.K.P.S.Palanivel Rajan

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to direct the third respondent not to Harass the petitioner in Crime No.370 of 2017 on the file of the Inspector of Police, Mayiladumparai Police Station, Theni district and now transferred to the third respondent.

2.The learned counsel appearing for the petitioner would submit that the respondent police harassed the petitioner under the guise of enquiry.

3.The learned Government Advocate (Crl.Side) would submit that the petitioner is already an accused in Crime No.370 of 2017

<https://hse.scribd.com/doc/111111111>



and the case is in the stage of investigation.

4. Heard the learned Counsel for the petitioner and the learned Government Advocate (crl.side) for the respondent police.

5. 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.

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 petitioner has 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 petitioner 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 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.

10.The third respondent is directed to complete the investigation and file a final report within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To:

- 1.The Superintendent of Police
Theni, Theni District.
- 2.The Inspector of Police
Mayiladumparai Police Station,
Theni District
- 3.The Inspector of Police
All Women Police Station,
Andipatti, Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.P.S. PALANIVELRAJAN, Advocate (SR-88145[F] dated 20/09/2019)

Crl.O.P.(MD)No.12082 of 2019

19.09.2019

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