



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. (MD)No.19166 of 2019

Beer Mohamed

...Petitioner

Vs.

1.The Sub-Inspector of Police,
Karaikudi North Police Station,
Karaikudi.

2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

3.Physal Ahamed

4.Ayubkhan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent Nos. 1 and 2 not to interfere the civil dispute with regard to the house bearing Door No.70, Ward No.16, Azath Street, Kattuthalaivasal, Karaikudi Town, Sivagangai District on the instigation of the fourth respondent herein.

For Petitioner : Mr.S.Mahesh Babu

For R1 & R2 : Mr.R.Anandharaj,
Additional Public Prosecutor

ORDER

This petition has been filed seeking direction to the respondent Nos. 1 and 2 not to interfere the civil dispute with regard to the house bearing Door No.70, Ward No.16, Azath Street, Kattuthalaivasal, Karaikudi Town, Sivagangai District on the instigation of the fourth respondent herein.

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



3.The learned Additional Public Prosecutor appearing for the respondent police submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending on the file of the respondent police.

4.Heard the learned Counsel for the petitioner and learned Additional Public Prosecutor for the respondent Nos. 1 and 2.

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 general criminal jurisdiction.

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 Article 226 of the Constitution of India 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 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 enquiry/investigation.

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

<https://hcservices.ecourts.gov.in/hcservices/> 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. With the above observations and direction, the Writ Petition stands disposed of.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

gns

To

1.The Sub-Inspector of Police,
Karaikudi North Police Station,
Karaikudi.

2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

+1 CC to M/s.S. MAHESHBABU, Advocate (SR-85123[F] dated
04/09/2019)

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JMN(26.09.2019) 3P : 4C