



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.09.2019**

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

WEB COPY

**W.P(MD) .No.20930 of 2019**

**and**

**W.M.P(MD)No.17505 of 2019**

C.K.C.Ganesh Kumar

... Petitioner

Vs.

1.The Superintendent of Police,  
C.B.C.I.D., Madurai.

2.The Deputy Superintendent of Police,  
C.B.C.I.D., Madurai.

3.The Inspector of Police,  
C.B.C.I.D., Ramanathapuram.

4.The Sub Inspector of Police,  
C.B.C.I.D., Ramanathapuram.

5.Manimaran

... Respondents

**Prayer :** This petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus forbearing the respondents 1 to 4 from interfering in the civil dispute between the petitioner and the fifth respondent pertaining to money claim and pass such other further orders as this Honourable Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.T.R.Jeyapalam

For R1 to R4 : Mr.R.Anandharaj

Additional Public Prosecutor

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**O R D E R**

This Writ Petition has been filed seeking a direction to forebear the respondents 1 to 4 from interfering with the civil dispute between the petitioner and the fifth respondent pertaining to money claim.

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.

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

5.It is the grievance of the petitioner that the respondents 1 to 4 are interfering with the civil dispute between the petitioner and the fifth respondent pertaining to money claim.

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 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. However, the respondents 1 to 4 have no role to play in the civil dispute between the petitioner and the 5<sup>th</sup> respondent herein. Therefore, there shall be a direction to the respondents 1 to 4 not to interfere with the civil dispute between the petitioner and the 5<sup>th</sup> respondent except any complaint pending against the petitioner.

11. With the above observations and direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS )

vsd

To

- 1.The Superintendent of Police, C.B.C.I.D., Madurai.
- 2.The Deputy Superintendent of Police, C.B.C.I.D., Madurai.
- 3.The Inspector of Police, C.B.C.I.D., Ramanathapuram.
- 4.The Sub Inspector of Police,  
C.B.C.I.D., Ramanathapuram.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.T.R.JEYAPALAM, Advocate SR-90610.

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