



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2019

CORAM:

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

Crl.O.P.(MD)No.15540 of 2019

1.Thiyagarajan

2.Parameswaran

...petitioners

-Vs-

1.The Deputy Superintendent of Police,
Ramanathapuram.

2.The Inspector of Police
Bazaar- Police Station,
Ramanathapuram.

3.Nagaraj

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the first and second respondents not to harass the petitioners and as well as their family members without any legally sustainable complaint.

For petitioners : Mr.D.Balamurugapandi

For R1 and R2 : Mr.K.Suyambulinga Bharathi
Government Advocate(crl.side)

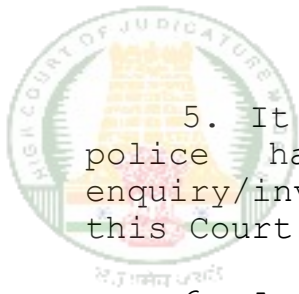
O R D E R

This petition has been filed for a direction, to direct the first and second respondents not to harass the petitioners as well as their family members in the guise of enquiry.

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

3. The learned Government Advocate(criminal side) appearing for the respondent police would submit that on the complaint given by the defacto complainant against the petitioners, petition enquiry is pending before the respondent police.

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



5. It is the grievance of the petitioners 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 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 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. With the above observations and direction, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar

To

- 1.The Deputy Superintendent of Police,
Ramanathapuram.
- 2.The Inspector of Police
Bazaar- Police Station,
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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