



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2019

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. (MD)No.25534 of 2019
and
WMP (MD)No.22083 of 2019

1.V.Manickam
2.S.Karunanidi
3.S.Ambedkar
4.A.Anthony
5.A.Thottichi
6.V.Valarmathi
7.S.Chinnadurai
8.M.Rajendiran
9.K.Musthafa
10.AM.Syed Oli
11.Y.Abbas
12.A.Jainul Abudeen
13.A.Abdul Rahman
14.M.Abdul Rahman

... Petitioners

Vs.

1.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City, Madurai District.

2.The Inspector of Police,
O/o. Inspector of Police,
Anna Nagar Police Station,
K.K.Nagar, Madurai.

3.K.Pethu Raj,
The Inspector of Police,
O/o.The Inspector of Police,
Anna Nagar Police Station,
K.K.Nagar, Madurai.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, forbearing the respondents No.2 and 3 from harassing the petitioner's by interfering with the street vending business conducted by the petitioners outside the Cycle stand of the Madurai Mattuthavani Bus stand.



For Petitioner : Mr.T.Lajapathi Roy

For R1 and R2 : Mr.A.Aanandharaj
Additional Public Prosecutor

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ORDER

This Writ Petition has been filed forbearing the respondents No.2 and 3 from harassing the petitioner's by interfering with the street vending business conducted by the petitioners outside the Cycle stand of the Madurai Mattuthavani Bus stand.

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 Additional Public Prosecutor appearing for the respondent police would submit that based on the complaint, petition enquiry is pending before the second respondent police.

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

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

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Commissioner of Police,
O/o. The Commissioner of Police,
Madurai City, Madurai District.

2. The Inspector of Police,
O/o. Inspector of Police,
Anna Nagar Police Station,
K.K. Nagar, Madurai.

+1 CC to M/s. T. LAJAPATHI ROY, Advocate (SR-103096[F] 03/12/2019)

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