



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.(MD)No.17854 of 2019

and

Cr1.M.P(MD) No.10566 of 2019

1.Elango

2.K.Rajalakshmi

: Petitioners

Vs.

1.The Commissioner of Police,
O/o.The Commissioner of Police,
Alagar Kovil Main Road,
K.Pudur, Madurai-02.

2.The Assistant Commissioner of Police,
Law and Order,
Anna Nagar Police Station,
Madurai-20.

3.The Inspector of Police,
Anna Nagar Police Station,
Madurai-20.

4.Seethalakshmi

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondents No.1 to 3 herein to not to Harass the Petitioners and not to interfere in the family and civil dispute based on the false complaint made by the fourth respondent herein.

For Petitioners : Mr.T.Lajapathi Roy

For R-1 to R-3 : Mr.S.Chandrasekar,

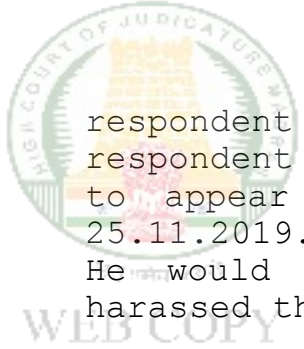
Additional Public Prosecutor.

ORDER

This criminal original petition has been filed to direct the respondents No.1 to 3 herein not to Harass the Petitioners and not to interfere in the family and civil dispute based on the false complaint made by the fourth respondent herein.

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

3.The learned Additional Public Prosecutor appearing for the respondent police submits that based on complaint given by one Seethalakshmi fourth respondent herein, an enquiry has been initiated and the petitioners were called for enquiry by the third



respondent Police and the petitioners have appeared before the respondent police on 21.11.2019 and thereafter, they were directed to appear before the respondent police for further enquiry on 25.11.2019. On that date, the petitioners have failed to appear. He would further submit that the respondents police have not harassed the petitioners and the petition enquiry is pending.

4. Heard the learned Counsel for the petitioners and learned Additional Public Prosecutor for the respondents police.

5. It is the grievance of the petitioners that the respondents 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 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 respondent police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant

<https://hcservices.ecourts.gov.in/hcservices/>

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

d)The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

e)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, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

cp

To:

1.The Commissioner of Police,
O/o.The Commissioner of Police,
Alagar Kovil Main Road,
K.Pudur, Madurai-02.

2.The Assistant Commissioner of Police,
Law and Order,
Anna Nagar Police Station,
Madurai-20.

3.The Inspector of Police,
Anna Nagar Police Station,
Madurai-20.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.T.LAJAPATHIROY, Advocate (SR-103345[F]dated
04/12/2019)

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and
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VB(19.12.2019) 3P 6C