

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.3651 of 2020

K.Senthilkumaran

..Petitioner

Vs

1. State rep by Commissioner of Police,
Greater Chennai City,
Chennai

2. The Deputy Commissioner of Police,
T.Nagar range,
Chennai

...Respondents

Prayer :- Criminal Original Petition filed under Section 482 Cr.P.C. to issue a direction directing the 2nd respondent Police "Not to Harass" the petitioner and his family members.

For Petitioner : Mr.D.Manoj Kumar

For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

This petition has been filed to to issue a direction directing the 2nd respondent Police not to harass the petitioner and his family members.

2. The learned counsel for the petitioner submits that the petitioner who is the President of "Ryan Recreation Club" which was registered under Tamil Nadu Association Registration Act in lincense No.49 of 2018 and also running a Spa as a part of the club in Door No.68/42, Ashok Nagar 4th Avenue, Ashok Nagar, Chennai. While being so, one, Mr.Vincent Jayaraj, Assistant Commissioner(Ashok Nagar Range) approached the petitioner for bribe of Rs.50,000/- per month for running the Spa and threatened with dire consequences. Thereafter, the petitioner lodged complaint before Vigilance and Anti-Corruption wing, and based on his complaint dated 16.04.2019, the said Mr.Vincent Jayaraj was caught red handed and FIR in Cr.No.11 of 2019 has been registered under Section 7 of Prevention of Corruption Act and he was remanded to judicial custody. Thereafter, there was

an issue between the the petitioner and his landlord regarding rent, and RCOP.No.1167 of 2018 was filed before the X Small Causes Court, Chennai by the landlord. Thereafter, the petitioner's brother filed a civil suit for not to evict him except due process of law in O.S.No.3829 of 2018 before the XII Assistant City Civil Court, Chennai.

3. He further submitted that the above RCOP was ordered in favour of the landlord, however appeal was preferred in RCA.No.431 of 2019, wherein interim stay was granted in MP.No.415 of 2019 in favour of the petitioner, and the RCOP is still pending. While being so, the landlord gave a complaint against the petitioner before the Sub Inspector of Police, R3, Ashok Nagar Police Station though the dispute is civil in nature. Even though the petitioner explained that the dispute is civil in nature, the petitioner is called for enquiry regarding the complaint given by the landlord. He further submitted that only regarding anti-corruption complaint against the said Assistant Commissioner, the Deputy Commissioner is trying to foist false case against the petitioner and his family members. Even the petitioner made a complaint on 02.01.2020 before the first respondent to take appropriate action against the second respondent and further not to harass the petitioner and his family members. Though the complaint was received, no action has been taken. Hence, the petitioner has filed the present petition.

4. It is seen that already the landlord of the petitioner filed RCOP.No.1167 of 2018 before the X Small Causes Court, Chennai, and the petitioner's brother also filed a civil suit for not to evict him except due process of law in O.S.No.3829 of 2018 before the XII Assistant City Civil Court, Chennai, which is pending. Further the above RCOP was ordered in favour of the landlord, and an appeal was preferred in RCA.No.431 of 2019 by the petitioner's brother, wherein interim stay in MP.No.415 of 2019 was granted in favour of the petitioner, and the RCOP is still pending. According to the petitioner, the landlord gave a complaint against the petitioner before the Sub Inspector of Police, R3, Ashok Nagar Police Station regarding the dispute which is civil in nature and thereafter petitioner also made a complaint before the first first respondent against the second respondent. Now the petitioner has filed the present petition to issue a direction directing the respondent police not to harass the petitioner and his family members.

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 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 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.

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

//True Copy//

Sub Assistant Registrar

jas/lok

To

1.The Commissioner of Police,
Chennai

2.The Deputy Commissioner of Police,
T.Nagar range,
Chennai

3.The Public Prosecutor,
High Court of Madras

+lcc to Mr.D.Manoj Kumar, Advocate, S.R.No.19593

Cr1.O.P.No.3651 of 2020

NR (CO)
KKV/05/08/2020



WEB COPY