

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.05.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Cr1.O.P.No.7729 of 2020

Sivaji @ Sivaji Raja

...Petitioner

Vs.

1. The State rep. by
The Superintendent of Police
Nagapattinam District

2.The Inspector of Police
Vedaranyam Police Station
Nagapattinam District

3.Ramalingam

4.Vaiyyapuri

5.Pandian

6.Lenin

7.Dharmadevi

8.Kaliyappan

... Respondents/ Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the first and second respondents herein to give police protection to the life and limb of the petitioner and his family members from the respondents 3 to 8 herein on the basis of the complaint dated 05.05.2020 to the first respondent sent online on 12.05.2020.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.K.Prabhakar

Additional Public Prosecutor

ORDER

This petition has been filed seeking direction to direct the first and second respondents herein to give police protection to the life and limb of the petitioner and his family members from the respondents 3 to 8 herein on the basis of the complaint dated 05.05.2020 to the first respondent sent online on 12.05.2020.

2. The learned counsel appearing for the petitioner submits that the wife of the petitioner was assaulted by the

respondents 3 to 8 and she was injured. Despite the complaint given by the petitioner's wife, no action has been taken by the respondent police. Whereas, the petitioner and his wife have been harassed under the guise of enquiry and thereby the present petition has been filed seeking for protection.

3. The learned Additional Public Prosecutor appearing for the respondent police submits that earlier on the complaint given by the 7th respondent, a case in Crime No.71 of 2020 had been registered against the petitioner for the offences under Sections 294(b), 352, 506(i) IPC and under Section 4 of Tamil Nadu Women Harassment Act and thereafter on the complaint given by the 8th respondent, a case in Crime No.503 of 2020 has been registered against the petitioner for the offences under Section 506(ii), 294, 323 IPC. He would submit that the petitioner has come out on bail and he and his wife had been continuously involving in illegal activities by threatening the counter parties. Based on the complaint given by the 8th respondent, enquiry has been initiated against the petitioner and his wife in C.S.R.No.151 of 2020. The wife of the petitioner has also given a complaint against the respondents 3 to 8. Based on the complaint given by the wife of the petitioner, enquiry has been initiated in C.S.R.No.152 of 2020. Since there are constant disputes between the petitioner's family and the family members of 3 to 8 respondents, the respondent police has referred the matter to the Tahsildar for conducting a peace committee meeting. He would submit that the respondent is conducting enquiry in C.S.R.No.151 of 2020 and C.S.R.No.152 of 2020 which are in the nature of case and counter case and that he is proceeding accordance with law.

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

5. It is the grievance of the petitioner that the respondent police has 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 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

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 in respect of C.S.R.No.151 of 2020 and C.S.R.No.152 of 2020.

10. With the above observations and direction, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police
Vedaranyam Police Station
Nagapattinam District

2.The Public Prosecutor
High Court of Madras
Chennai 00 104

3.The Superintendent of Police
Nagapattinam District

Cr1.O.P.No.7729 of 2020

A.SK(26/05/2020)



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