

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.7931 of 2020

1.Rajendran

2.Gowri

3.Saravanakumar

... Petitioners

Vs.

The Union Territory of Puducherry Rep. By the
The Station House Officer
PCR, Cell Police Station
Puducherry
Cr.No.Not known of 2020

... Respondent

Prayer:Criminal Original Petition filed under Section 482
Cr.P.C. for a direction to direct the respondent police not to
harass the petitioners in Cr.No.Not known of 2020 on the file of
the respondent police.

For Petitioners : Mr.V.S.Senthil Kumar

For Respondent : Mr.Bharatha Chakravarthy
Public Prosecutor (Puducherry)

ORDER

(The case has been heard through video conference)

The petition has been filed seeking for a direction to
direct the respondent police not to harass the petitioners in
Cr.No.Not known of 2020 on the file of the respondent police.

2.The learned counsel for the petitioner would submit that
on a complaint given by one Valli, a case has been registered
against the petitioners in Crime No.23 of 2019 for the offences
under Sections 294(b), 323 r/w 34 IPC and 3(2)(va) of the SC &
ST (Prevention of Atrocities) Act 2015. He would further submit
that the petitioner has approached this Court seeking for a
direction to consider their bail application on the same day of
surrender in Crl.O.P.No.5709 of 2020 and this Court by its order
dated 13.03.2020 has allowed the petition, directing the
petitioners to surrender within a period of two weeks from the
date of receipt of a copy of the order. However, the copy of the

order is not made ready. Meanwhile, the respondents are harassing the petitioners.

3.The learned Public Prosecutor (Puducherry) would submit that the respondents are not harassing the petitioners. He would further submit that the defacto complainant Valli had also given a complaint before the Department of Social Welfare, Puducherry and it has been forwarded to the respondent police for enquiry. When the respondent police had gone to the house of the defacto complainant Valli to enquire her, the petitioners who live in the opposite house of the complainant, had created problem with the police. This petition has been filed to preempt the respondents from taking action against the petitioners in accordance with law. He would further submit in the event of summoning the petitioners for enquiry, they would follow due procedure of law by issuing appropriate summons for enquiry.

4.Heard the learned counsel for the petitioner and the learned Public Prosecutor (Puducherry) for the respondent.

5.It is the grievance of the petitioners that the respondent police has 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 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 three advance notice.

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. However, in this case since the case in Crime No.23 of 2019 had been registered against the petitioners for the offences under Sections 294(b), 323 r/w 34 IPC and 3(2)(va) of the SC & ST (Prevention of Atrocities) Act 2015 and that the petitioners have been by order of this Court in Crl.O.P.No.5709 of 2020 dated 13.03.2020, directed to surrender within a period of two weeks from the date of receipt of a copy of the order, the petitioners are directed to comply with the orders passed by this Court.

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

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To.

1. The Union Territory of Puducherry Rep. By the
The Station House Officer
PCR, Cell Police Station
Puducherry

2. The Public Prosecutor
Puducherry

Crl.O.P.No.7931 of 2020

JP (CO)
RMP (22/07/2020)