

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.7936 of 2020

B.Senthilvelselvam

... Petitioner

Vs.

1.The Assistant Commissioner of Police  
O/o. Assistant Commissioner of Police  
Pallavam  
Chennai

2.The Inspector of Police  
Shnakar Nagar Police Station  
Shangar; Pammal  
Chennai 600 075

... Respondents

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondents Police not to harass the petitioner in the name of investigation on the file of the Inspector of Police, Shanar Nagar Police station, Tambaram.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondents : Mr.K.Prabhakar  
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

This Criminal Original Petition has been filed seeking a direction to direct the respondents Police not to harass the petitioner in the name of investigation on the file of the Inspector of Police, Shanar Nagar Police station, Tambaram.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3.When the matter is taken up today, the learned Additional Public Prosecutor would submit that on a complaint given by one Neelavathy to the Commissioner of Police, the matter was registered in Current Paper No.2526 of 2019 and has been forwarded to the 2<sup>nd</sup> respondent for enquiry and the petitioner has been summoned for enquiry.

4. Heard both sides and perused the available materials on record.

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 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.

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

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner of Police  
O/o. Assistant Commissioner of Police  
Pallavam, Chennai

2.The Inspector of Police  
Shnakar Nagar Police Station  
Shangar; Pammal, Chennai 600 075

3.The Public Prosecutor  
Madras High Court  
Chennai 600 104.

Cr1.O.P.No.7936 of 2020

JP (CO)  
RMP (23/07/2020)

सत्यमेव जयते

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