IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 11841 of 2020

K.Mathivanan
S/o.Late.N.C.Kasinathan,
Nayanaseruvu Village and Post,
Nattarampalli Zone,
Thirupathur District. ... Petitioner

Vs.

1.The Superintendent of Police,
Thirupathur,
Thirupathur District.

2.The Deputy Superintendent of Police,
Vaniyampadi, Thirupathur District.

3.State rep.by,
The Inspector of Police,
Thimmapettai Police Station,
Thimmapettai Vaniyampadi,
Thirupathur District.

4.K.Chitra,
Block Development Officer,
Natrampalli Panchayat Union,
Thirupathur District. ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the 3rd respondent police, Thimmapettai Police Station, Thimmapettai Vaniyampadi, Thirupathur District to not to harras the petitioner based on the representation dated 25.07.2020.

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For Petitioner : Mr.G.Vinodh Kumar

For Respondents: Mr.S.Karthikeyan
Additional Public Prosecutor.

O R D E R

This petition has been filed seeking direction directing the 3rd respondent police, Thimmapettai Police Station, Thimmapettai Vaniyampadi, Thirupathur District to not to harras the petitioner based on the representation dated 25.07.2020.

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

3. The learned Additional Public Prosecutor appearing for the respondent police submits that on the complaint given by the de facto complainant against the petitioner, petition enquiry is pending in C.S.R.No.225 of 2020 on the file of the respondent police

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 have been harassing her 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

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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(CS-IV)

//True copy//

Sub Assistant Registrar

bkn

To

1.The Superintendent of Police,
Thirupathur,
Thirupathur District.

2.The Deputy Superintendent of Police,
Vaniyampadi, Thirupathur District.

3.The Inspector of Police,
Thimmapettai Police Station,
Thimmapettai Vaniyampadi,
Thirupathur District.

4.The Public Prosecutor,
High Court, Madras.

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Crl.O.P.No.11841 of 2020

SPD(CO)
GMY(28/10/2020)

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