

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.12971 of 2020

S.Menaka

...Petitioner/
Second Accused

Vs.

State of Tamilnadu rep by its:
The Inspector of Police, [Law & Order]
K-2, Ayanavaram Police Station,
Ayanavaram, Chennai.
(Crime No.715 of 2019)

...Respondent/
Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondent not to harass the petitioner in the name of enquiry.

For Petitioner : Mr.G.Mohanakrishnan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner praying to direct the respondent police not to harass her under the guise of an enquiry. It appears that the petitioner was allegedly involved in commission of the offences punishable under Sections 294(b), 323, 452, 365, 506(i) r/w Section 4 of Woman Harassment Act. A case was registered on the file of the respondent police and the petitioner was arrayed as 1st accused. Subsequently, the petitioner was enlarged on bail. The grievance of the petitioner is that the other accused are absconding and the petitioner alone is subjected to custodial violence and torture under the guise of an enquiry. In such circumstances, the petitioner is before this Court.

2. The learned counsel appearing for the petitioner would submit that though the case was registered against the petitioner, the respondent police often called the petitioner and her family members to the police station and causing harassment.

3. Mr.S.Karthikeyan, learned Additional Public Prosecutor would submit that a case was registered in Crime No.715 of 2019 against the petitioner and others and the petitioner was also enlarged on bail and co-accused were also granted bail by this Court and the investigation is pending.

4. Heard the learned Counsel for the petitioner as well as 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, she 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 power of the Investigation Officers so long as the power to investigate/enquire into these offences is 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, if 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 seeks 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 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

To

1. The Inspector of Police, [Law & Order]
K-2, Ayanavaram Police Station,
Ayanavaram, Chennai.
2. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.12971 of 2020

KK(CO)
RV(28/10/2020)

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