

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

CrI.O.P.No.16356 of 2020

1.Mani
2.M.Prasad

..Petitioners

Vs.

State rep by its:

The Inspector of Police,
Thirupattur Police Station,
Vellore District.

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondent not to harass the petitioners based upon the complaint dated 18.09.2019 given by the defacto complainant.

For Petitioners : Mr.A.Arasu Ganesan

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

O R D E R

(This case has been heard through video conferencing)

This Criminal Original Petition has been filed seeking direction to direct the respondent not to harass the petitioners under the guise of enquiry.

2. Heard Mr.A.Arasu Ganesan, learned counsel for the petitioners and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondent police.

3. Today when the petition came up for hearing, learned counsel for the petitioners made a submission that the respondent herein harassed the petitioner under the guise of enquiry.

4. Per contra, learned Additional Public Prosecutor appearing for the respondent on instructions would submit that upon the complaint given by one Rajan, the respondent police

initiated an enquiry against this petitioner in C.No.1558 of 2020 and the same was pending till now. The said submission is recorded.

5. It is the grievance of the petitioners that the respondent police has been harassing them under the guise of 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 the 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.

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,
Thirupattur Police Station,
Vellore District.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Arasu Ganesan, Advocate, S.R.No.34330

Cr1.O.P.No.16356 of 2020

AD(CO)
RV(09/11/2020)

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