

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.NO.19585 OF 2020

S.Ibrahim

... Petitioner

-Vs-

1. The Commissioner of Police,
132, Commissioner Office Building,
Vepery, Chennai-7.
 2. The Deputy Commissioner of Police,
Washermenpet Police Station,
Thiruvottiyur, Chennai.
 3. The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai - 21.
- ... Respondents

Prayer:

Criminal Original Petition filed under section 482 of Criminal Procedure Code, to direct the respondents not to harass the petitioner in the Blanket of enquiry in the CSR No:Not known/2020.

For Petitioner : Mr.L.Infant Dinesh

For Respondents: Mrs.M.Prabhavathi
Additional Public Prosecutor

O R D E R

1. The matter was heard through "Video Conference".
2. This Criminal Original Petition has been filed seeking a direction to the respondent police not to harass the petitioner under the guise of enquiry.
3. Heard Mr.L.Infant Dinesh, learned counsel appearing for the petitioner and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondents.

4. The learned counsel appearing for the petitioner would submit that the respondent police harassed the petitioner under the guise of enquiry.

5. The learned Additional Public Prosecutor appearing for the respondents would submit that after the receipt of the complaint given by one Mubarak, the third respondent police initiated an enquiry in C.No.428 of 2020 dated 20.11.2020 and the same is pending on the file of the third respondent police.

6. 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 filed this petition before this Court, praying to invoke the inherent powers of this Court under Section 482 of Cr.P.C.

7. 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.

8. This Court, exercising its power under Section 482 of Code of Criminal Procedure 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, when it is brought to its notice.

9. 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.

10. 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.

11.With the above observations and directions, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Commissioner of Police,
132, Commissioner Office Building,
Vepery, Chennai-7.
2. The Deputy Commissioner of Police,
Washermenpet Police Station,
Thiruvottiyur,
Chennai.
3. The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai - 21.
4. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.19585 of 2020

UM(CO)
CS/21/01/2021