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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.01.2020
CORAM:
THE HONOURABLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**
Crl.O.P.(MD) No.518 of 2020

1.G.Senthil Kumar
2.R. Meenakshi ...Petitioners

Vs.

1. The Commissioner of Police
Madurai City, Madurai

2. The Inspector of Police
Mathichiyam Police Station
Madurai City

3. The Inspector of Police
Anti Land Grabbing Cell
Dindigul, Dindigul District

4. N.Parthiban ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the 2nd respondent not interfere with the civil dispute in respect of the suit in O.S.No.677 of 2017 on the file of the Principal Sub-Court, Dindigul and also not to harass the petitioners herein and pass such other and further orders,

For Petitioners : Mr.N.Pragalathan

For Respondents No.1 to 3 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This petition has been filed seeking direction to direct the 2nd respondent not interfere with the civil dispute in respect of the suit in O.S.No.677 of 2017 on the file of the Principal Sub-Court, Dindigul and also not to harass the petitioners herein

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

3. The learned Additional Public Prosecutor appearing for the respondent police submits that on the complaint given by the defacto complainants against the petitioners, petition enquiry is pending on the file of the respondent police

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4. Heard the learned Counsel for the petitioners and learned Additional Public Prosecutor for the respondent police.

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

c)The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

dThe 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**

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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-I)

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Sub Assistant Registrar(CS)

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To

1. The Commissioner of Police
   Madurai City, Madurai

2. The Inspector of Police
   Mathichiyam Police Station
   Madurai City

3. The Inspector of Police
   Anti Land Grabbing Cell
   Dindigul, Dindigul District

4.The Additional Public Prosecutor
  Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.N.PRAGALATHAN, Advocate (SR-1599[F] dated 13/01/2020)

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