



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.01.2020**

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.(MD).No. 956 of 2020

WEB COPY

K. Mohamed Ashik ... Petitioner
Vs.

1. The Assistant Commissioner of Police,
Madurai City, Madurai.

2. The Sub-Inspector of Police,
City Crime Branch Police Station,
Madurai City.

3. Mohamed Farook ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the respondents-1 & 2 that not to harass the petitioner in the guise of enquiry based on the complaint of the third respondent and consequently direct the respondents-1 & 2 that not to interfere into civil dispute between the petitioner and the third respondent in respect of the property in Flat No. 501 & 502 situating in 5th Floor, Pryme Neo Apartment, Alagar Kovil, Sarveyor Colony, Madurai - 625 007.

For Petitioners	: Mr.J. John Raja Durai
For R-1 & 2	: Mr.S. Chandrasekar, Additional Public Prosecutor
For R-3	: Mr. R. Gandhi

O R D E R

This petition is filed seeking direction to the respondents-1 & 2 that not to harass the petitioner in the guise of enquiry based on the complaint of the third respondent and consequently direct the respondents-1 & 2 that not to interfere into civil dispute between the petitioner and the third respondent in respect of the property in Flat No. 501 & 502 situating in 5th Floor, Pryme Neo Apartment, Alagar Kovil, Sarveyor Colony, Madurai - 625 007.

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

3. The learned counsel appearing for the third respondent would submit that the petitioner has cheated the third respondent to the tune of Rs.1 lakh and that he has given a complaint to the second



respondent in respect of which enquiry has been initiated by the petitioner. He would also submit that the petitioner has also filed a petition for anticipatory bail and this Court had directed the petitioner to appear before the respondent police for enquiry.

4. The learned Additional Public Prosecutor appearing for the respondent police submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending in C. No.268/PG/DC-HQ/MC/2019, dated 12.12.2019 on the file of the respondent police.

5. Heard both sides and perused the materials available on record.

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 invoked 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.

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 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 the police officer for 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

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Assistant Commissioner of Police,
Madurai City, Madurai.

2. The Sub-Inspector of Police,
City Crime Branch Police Station,
Madurai City.

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

+1 CC to Mr.M.S.JEYAKARTHIK, Advocate (SR-2768[F] dated
24/01/2020)

+1 CC to Mr.R.GANDHI, Advocate (SR-2731[F] dated 24/01/2020)

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