



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2020

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**

Crl.O.P.(MD).No.1610 of 2020

M.Surya

... Petitioner

Vs.

1.The Superintendent of Police,
Madurai Rural,
Surveiyar Colony,
Madurai, Madurai District.

2.The Inspector of Police,
Keelavalavu Police Station,
Melur Taluk,
Madurai District.

... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to direct the first respondent herein to advise the second respondent not to harass the petitioner in the guise of enquiry into the matter which is purely personal between the petitioner's mother Selvarani and the members of the self-help groups.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This criminal original petition has been filed for a direction to direct the first respondent herein to advise the second respondent not to harass the petitioner in the guise of enquiry into the matter which is purely personal between the petitioner's mother Selvarani and the members of the self-help groups.

2.The learned Additional Public Prosecutor appearing for the respondents submitted that on the complaint given by one M.Kamatchi and others against one Selvarani, who is the mother of the petitioner, an enquiry has been initiated in C.S.R.No.36 of 2020 by the second respondent Police. The allegation against the mother of



the petitioner viz., Selvarani is that she borrowed money from several persons and on her absence, the respondents have summoned the petitioner to enquire about the whereabouts of her mother other than they have not harassed the petitioner.

3.At this Juncture, the learned counsel appearing for the petitioner would submit that though the allegations are only against her mother, the petitioner has been unnecessarily harassed by the respondents.

4.It is the grievance of the petitioner that the respondent police have 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.

5.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.

6.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.

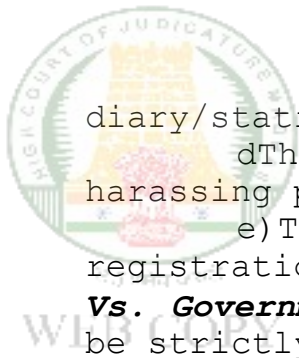
7.In the present case in hand, the petitioner has complained of harassment by the police based on a complaint and seek for this Court's intervention by way of a direction. The term 'harassment' by itself has a very wide meaning and hence, what could be harassment to the petitioner may not be the same to the police officer.

8.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

<https://hcservices.ecourts.gov.in/hcservices/> 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 Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)]** shall be strictly adhered to.

9.With the above observations and direction, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

vsg

To

1.The Superintendent of Police,
Madurai Rural,
Surveiyar Colony,
Madurai, Madurai District.

2.The Inspector of Police,
Keelavalavu Police Station,
Melur Taluk,
Madurai District.

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

+1 CC to M/s.R.MURUGAN, Advocate (SR-4119[F] dated 31/01/2020)

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JMN(19.02.2020) 3P : 5C