



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD) No.2674 of 2020

WEB COPY

Sankar

... Petitioner

Vs.

1. The Inspector of Police
All Women Police Station
Tenkasi

2. Kavitha

... Respondents

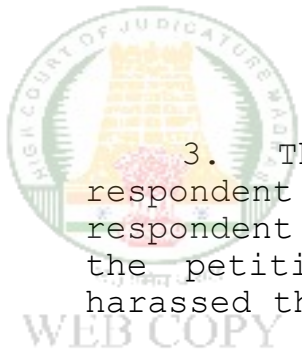
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the 1st respondent not to harass the petitioner under the guise of enquiry on the basis of the complaint of the 2nd respondent

For Petitioner	:	Mr.D.Venkatesh
For Respondent	:	Mr.S.Chandrasekar
No.1		Additional Public Prosecutor

ORDER

This petition has been filed seeking direction to direct the 1st respondent not to harass the petitioner under the guise of enquiry on the basis of the complaint of the 2nd respondent.

2. The learned counsel appearing for the petitioner would submit that the second respondent is the wife of the petitioner. He would submit that the petitioner has filed an application in HMOP NO.86 of 2013 before the Principal Sub Court, Tenkasi for restitution for conjugal rights. Despite decree the second respondent did not come forward to live with the petitioner and thereafter after four years the petitioner has preferred an application in HMOP No.86 of 2017 before the same Court for divorce and the said application is pending. The second respondent has filed a petition in MC No.16 of 2013 seeking for maintenance and also petition under Section DV No.2 of 2019 under protection of woman from domestic violence act and both the cases are pending before the learned Judicial Magistrate, Senkottai. Suppressing all these facts the respondent is giving complaint to the respondent and based on which the petitioner is repeatedly harassed. Earlier the petitioner has filed a similar application before this Court in Crl.O.P(MD) No.5100 of 2018 and the said application was disposed by this Court on 21.08.2019. Since the petitioner is unnecessarily harassed under the guise of enquiry he has approached this Court.



3. The learned Additional Public Prosecutor appearing for the respondent police submit that based on the complaint given by the respondent enquiry has been initiated and the respondent have called the petitioner for enquiry and other than that they have not harassed the petitioner.

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

5. 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.

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 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.

<https://hcservices.court.gov.in/hcservices> The dates 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.

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

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police
All Women Police Station
Tenkasi

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

+1 CC to Mr.D.VENKATESH, Advocate (SR-6811[F] dated 18/02/2020)

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MK (26.02.2020) 3P 4C