



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.07.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

CrI.O.P.[MD]No.6949 of 2020

1.M.Eswari
2.V.Janaki
3.M.Jeyanthi

... Petitioners

Vs.

1.The Superintendent of Police,
Dindigul District,
Dindigul.

2.The Inspector of Police,
District Crime Branch,
Dindigul District.
Crime No.6 of 2020

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to restrain the respondents from harassing the petitioners by compelling them to be witnesses in connection with Crime No.6/2020 on the file of the second respondent Police and to direct the first respondent to take appropriate legal actions against the policemen attached with the second respondent unit for having forcibly recorded videos of the petitioners when they are at home in their casual dresses and for threatening to upload such videos in social media based on the petitioners' complaint dated 23.06.2020.

For Petitioners : Mr.A.Kannan

For Respondents : Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking direction to restrain the respondents from harassing the petitioners by compelling them to be witnesses in connection with Crime No.6/2020 on the file of the second respondent Police and to direct the first respondent to take appropriate legal actions against the police men attached with the second respondent unit for having forcibly recorded videos of the petitioners, when they are at home in their casual dresses.

2.The learned counsel appearing for the petitioners would submit that during the time of occurrence, the police officer attached with the second respondent entered into the house of the petitioners and threatened them to stand as witnesses in the case registered in a Crime No.6 of 2020. He would further submit that



the second respondent forcibly recorded videograph by using their mobile phone, for which a compliant has been lodged by the petitioners before the first respondent.

3.The learned Additional Public Prosecutor appearing for the respondents would submit that the petitioners are working in a company, in which, the alleged occurrence was happened. Though it was alleged that they are compelled to stand as witnesses, infact, after registration of the case in Crime No.6 of 2020, under Section 120B, 406, 499, 506(i), 384, 511 of I.P.C., r/w Section 74 of Information Technology Act, 2000, the petitioners were summoned by the second respondent police for enquiry. He would further submit that even after receiving the summons served by the Police, the petitioners have not attended the enquiry on 30.06.2020. Only in order to avoid the enquiry, the petitioners have approached this Court with the help of the accused.

4.In general, an enquiry into a non cognizable offence or a cognizable offence, is the unfettered powers of the Investigation Officers and 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. In this background, 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.

5.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 with a blind eye to the instances of harassment by the police under the guise of investigation, which is brought to its notice.

6.In the present case in hand, the petitioners who are all cited as witnesses in the above referred case has the complaint of harassment by the police. In the said situation, this Court cannot direct the second respondent not to examine the petitioners.

7.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 minutes of the enquiry shall be recorded in the general



diary/station diary/daily diary of the police station.

c)The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

8.Considering the facts and circumstances of the case, it is also appropriate to give some direction to the Deputy Superintendent of Police, Dindigul, which as follows:-

The Deputy Superintendent of Police, Dindigul, is directed to monitor the case registered in Crime No.6 of 2020 on the file of the second respondent police.

9.With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cp

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Superintendent of Police,
Dindigul District,
Dindigul.
- 2.The Deputy Superintendent of Police,
Dindigul, Dindigul District.
- 3.The Inspector of Police,
District Crime Branch,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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