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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **28.07.2020**
CORAM:
THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**
Crl.O.P.(MD)No.7806 of 2020

R.Umamaheswari ... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

2.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.

3.Ganesan
4.Thiyagarajan
5.Vellammal
6.Thilakaraj ... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the second respondent not to harass the petitioner herein and his family members under the guise of enquiry.

For Petitioner : Mr.C.Anto Prince
For R-1 and R-2 : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking direction to direct the second respondent police not to harass the petitioner under guise of enquiry based on the complaint given by the fifth respondent, which is purely a money transaction.

2.Today, when the petition is came up for hearing, the learned Additional Public Prosecutor appearing for the respondents 1 and 2, on instructions, would submit that for the complaint given by the fifth respondent, summons were issued to the petitioner with a direction to appear before the second respondent police on 30.05.2020. Further, enquiry in respect to the said complaint was pending along with the enquiry initiated in C.S.R.No.187 of 2020 for the complaint given by the petitioner, in which she made allegation against the respondents 3 to 6.

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3.Heard the learned Counsel for the petitioner and learned Additional Public Prosecutor for the respondents 1 and 2.

4.It is the grievance of the petitioner that the second respondent police has been harassing her under the guise of an enquiry/investigation and hence,invoking the inherent powers of this Court under Section 482 of Cr.P.C is necessary for protecting the rights of the petitioner.

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 second 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

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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 directions, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

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,
Madurai District, Madurai.

2.The Inspector of Police,
Thirumangalam Police Station,
Madurai District.

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

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