



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.08.2020**

CORAM:

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

W.P.(MD)No.8836 of 2020

and

W.M.P (MD)No.8103 of 2020

L.Gnanamani

...Petitioner

Vs.

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

2.The Inspector of Police,
Sempatty Police Station,
Dindigul District.

3.The Sub Inspector of Police,
Sempatty Police Station,
Dindigul District.

4.L.Manoharan

...Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, forbearing the third respondent not to involve in the civil dispute between the petitioner and the fourth respondent herein.

For Petitioner : Mr.S.Sarvagan Prabhu
For Respondents : Mr.S.Chandrasekar,
Additional Public Prosecutor

O R D E R

This writ petition has been filed for the issuance of writ of Mandamus forbearing the third respondent not to involve in the civil dispute between the petitioner and the fourth respondent.

2.The learned counsel for the petitioner would submit that the petitioner is the resident of Mettupatti, Dindigul District. He is having land dispute with the fourth respondent, who is also a resident of same village.

3.Further case of the petitioner is that for settling the dispute having by him with the fourth respondent, the petitioner had lodged a complaint before the second respondent police and the same was taken on file for enquiry in CSR No.196 of 2020 dated 20.06.2020. In this regard, he would further submit that though the petitioner lodged a complaint against the fourth respondent, the second respondent police herein harassed the petitioner under the guise of enquiry.



4.The learned Additional Public Prosecutor appearing for the respondent would submit that on the complaint given by the petitioner, petition enquiry is pending on the file of the respondent police.

WEB COPY 5.Heard the learned Counsel for the petitioner and learned Additional Public Prosecutor for the respondent police.

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 invoking the writ jurisdiction is necessary.

7. In general, 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.

8.This Court, exercising its power 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.

9.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.

10.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.



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.

f)If it is found that the dispute between the petitioner and the fourth respondent is civil in nature, the Police Officer cannot interfere in the name of enquiry /investigation.

11.With the above observations and direction, this Writ Petition stands disposed off. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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, Dindigul District.

2.The Inspector of Police,
Sempatty Police Station,
Dindigul District.

3.The Sub Inspector of Police,
Sempatty Police Station,
Dindigul District.

+1 CC to M/s.S.SARVAGAN PRABHU,Advocate(SR-13780[Fdated07/08/2020]

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KB(18.08.2020) 3P 5C

06.08.2020