



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.8471 of 2020

1.PL.Avichi
2.Vijay Anand
3.G.Shanmugam

... Petitioners

Vs.

1.State Rep.by
The Superintendent of Police,
Sivaganga,
Sivaganga District.

2.The Inspector of Police,
Kundrakudi Police Station,
Kundrakudi,
Karaikudi Taluk,
Sivaganga District.

3.SR.Krishnan
4.Ganesh Pandian

... Respondents

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, to direct the 2nd respondent herein not to harass the petitioners on the guise of enquiry except under due process of law based on the complaint given by respondents 3 and 4.

For Petitioners : Mr.R.Sundar Srinivasan

For Respondents : Mr.A.P.G.OHM.Chairma Prabhu
(R1 & R2) Govt.Advocate

O R D E R

This Criminal Original Petition has been filed, seeking a direction to direct the 2nd respondent herein not to harass the petitioners under the guise of enquiry except under due process of law, based on the complaint given by respondents 3 and 4.

2. The learned counsel appearing for the petitioners would submit that the respondent Police harassed the petitioners under the guise of enquiry.

3. The learned Government Advocate appearing for the respondents 1 and 2, on instructions, would submit that based on the complaint given by the 4th respondent, the 1st respondent herein initiated an enquiry in current paper No.63/6004/N4/SPGOP/2020 and thereafter, the same has been transferred to the Land Grabbing Cell for further enquiry.

4.Heard the learned Counsel for the petitioners and learned Government Advocate for the respondents 1 and 2.



5. It is the grievance of the petitioners that the respondent police have been harassing them 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 petitioners.

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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 petitioners have 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 petitioners 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 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 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 (AS)

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/ /2020

Sub Assistant Registrar(CS)

MPK

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,
Sivaganga,
Sivaganga District.

2.The Inspector of Police,
Kundrakudi Police Station,
Kundrakudi,
Karaikudi Taluk,
Sivaganga District.

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

+1 CC to M/s.R. SUNDAR SRINIVASAN, Advocate (SR-14151[F] dated 17/08/2020)

CRL OP(MD)No.8471 of 2020
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KK(28.08.2020) 3P 5C