



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.09.2020**

CORAM:

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

CrI.O.P.[MD]No.8968 of 2020

- 1.Ponnaiyan
- 2.Velusamy
- 3.Gopinath
- 4.Suthakaran

... Petitioners

Vs.

1. The Superintendent of Police,
Theni District, Theni.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Andipatti, Theni District.
- 3.The Inspector of Police,
Rajadhani Police Station, Theni District.
- 4.Ponnaiyan
- 5.The Deputy Superintendent of Police,
District Crime Branch,
Theni District, Theni.

... Respondents

(Respondent No.5 impleaded as per order of this Court
dated 03.09.2020 in CrI.M.P.(MD).No.4360 of 2020
in CrI.O.P.(MD).No.8968 of 2020)

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the second and third respondents not to harass the petitioners and their family members upon the guise of enquiry based on the complaint dated 10.08.2020 given by the fourth respondent.

For Petitioners	: Mr.B.Arun
For R-1 to R-3 & R-5	: Mr.A.P.G.Ohm Chairma Prabhu Government Advocate (Criminal side)



O R D E R

This petition has been filed seeking direction to direct the second and third respondents herein not to harass the petitioners and their family members under the guise of enquiry, based upon the complaint dated 10.08.2020 given by the fourth respondent.

2.The learned counsel appearing for the petitioners would submit that the second and third respondents harassed the petitioners and their family members under the guise of enquiry.

3.The learned Government Advocate (Criminal side) appearing for the respondents 1 to 3 and 5, on instructions, would submit that upon the complaint given by the fourth respondent, the third respondent herein initiated a petition enquiry against the petitioners and the same was pending in Reference.No.1053/GDB/SP.TNI/2020. Similarly upon the complaint given by one Manivel, another one enquiry was initiated against the petitioners in Reference.No.1040/GDB/SP.TNI/2020 and the same was also pending on the file of the third respondent Police Station.

4.Heard the learned Counsel for the petitioners and the learned Government Advocate (Criminal side) appearing for the respondents 1 to 3 and 5.

5.It is the grievance of the petitioners that the second and third respondents 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.

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 third respondent police is directed to serve summons mentioning the Reference numbers, 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 directions, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (A.E)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

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,
Theni District, Theni.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Andipatti, Theni District.
3. The Inspector of Police,
Rajadhani Police Station, Theni District.
4. The Deputy Superintendent of Police,
District Crime Branch,
Theni District, Theni.

Copy to: The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CrI.O.P.[MD]No.8968 of 2020
Dated :18.09.2020

SS (CO)
CS (15.10.2020) 4P 6C