



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2020

WEB COPY

CORAM:

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

W.P.[MD]No.11059 of 2020

Manjula @ Thangaponnu

... Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Dr.Radha Krishnan Salai,
Chennai.

2.The Commissioner of Police,
Office of Commissioner of Police,
Trichy District,
Trichy.

3.The Inspector of Police,
Office of the Inspector of Police,
Contonment Police Station,
Law and Order,
Trichy District,
Trichy.

... Respondents

PRAYER : This Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the third respondent not to harass the petitioner and her husband by the way of intervening into the civil dispute.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

The petitioner filed this writ petition praying for issuance of a writ of mandamus to direct the third respondent not to harass the petitioner and her husband by way of intervening into the civil dispute.



2.Today, when the petition is taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that on the complaint given by one Durairaj, petition enquiry has been initiated against the petitioner in CSR No.322 of 2020, dated 26.08.2020 and as of now, petition enquiry is pending on the file of the third respondent.

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

4. It is the grievance of the petitioner that the respondents police have been harassing her under the guise of an enquiry/investigation and hence, has invoking the writ jurisdiction is necessary.

5. 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.

6.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.

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 third 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 Durairaj is civil in nature, the respondents police cannot interfere in the name of enquiry /investigation.

9. With the above observations and direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// 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 Director General of Police,
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2.The Commissioner of Police,
Office of the Commissioner of Police,
Trichy District,
Trichy.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Inspector of Police,
Office of the Inspector of Police,
Contonment Police Station,
Law and Order,
Trichy District,
Trichy.

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

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NR(14.09.2020) 4P 5C