



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.09.2020**

CORAM:

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

CrI.O.P. (MD)No.10163 of 2020

WEB COPY

1.S.Ilavarasan
2.D.Selvaraj
3.S.Malaiyarasan
4.S.Duraiyarasan

... Petitioners

Vs.

1.The Superintendent of Police,
Thoothukudi District,
Thoothukudi-628 101.

2.The Inspector of Police,
All Women Police Station (AWPS)
Thoothukudi-628 002.

3.P.Thirumani Selvi

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the second respondent not harass the petitioners and their family members without any legally sustainable complaint.

For Petitioners : Mr.C.Masilamani
For R-1 and R-2 : Mr.C.M.Ganesan
Government Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed seeking a direction to direct the second respondent not to harass the petitioners and their family members without any legally sustainable complaint.

2.Today, when the matter is taken up for hearing, the learned Government Advocate (crl.side) appearing for the respondents 1 and 2, on instructions, would submit that on the complaint given by the third respondent, petition enquiry has been initiated against the petitioner in C.S.R.No.430 of 2020 and as of now, the same was pending on the file of the second respondent police station.



3. Heard the learned Counsel for the petitioners and learned Government Advocate (crl.side) for the respondents 1 and 2.

4. It is the grievance of the petitioners that the respondents police have been harassing them under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

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 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.

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 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 direction, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cp

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,
Thoothukudi District,
Thoothukudi-628 101.

2.The Inspector of Police,
All Women Police Station (AWPS)
Thoothukudi-628 002.

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

CrI.O.P. (MD)No.10163 of 2020
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SCR(CO)
TR(05.10.2020) 3P 4C