



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.09.2020**

CORAM:

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

Crl.O.P.[MD]No.10469 of 2020

WEB COPY

- 1.Suresh
- 2.Booma Devi
- 3.Manjula
- 4.Sathish Kumar

... Petitioners

Vs.

- 1.State of Tamil Nadu represented by its
The Commissioner of Police, Madurai City,
Madurai.
- 2.The Assistant Commissioner of Police,
City Crime Branch,
Madurai Old Commissioner Office Campus,
Madurai City.
- 3.The Inspector of Police,
Vilakuthoon Police Station, Madurai City.
- 4.The Inspector of Police,
Theppakulam Police Station, Madurai City.
- 5.The Inspector of Police,
Anti-Land Grabbing Special Cell,
Madurai City.
- 6.Ramesh
- 7.Vasanthan

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the respondents 2 to 5, not to harass the petitioners under the guise of enquiry in the nature of civil dispute.

For Petitioners	: Mr.G.Aravinthan
For R-1 to R-5	: Mr.C.M.Ganesan
	Government Advocate (Criminal side)

O R D E R

This criminal original petition has been filed seeking a direction to direct the respondents 2 to 5, not to harass the petitioners under the guise of enquiry in respect of the civil dispute having by the petitioners with the seventh respondent.



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

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

4. Today, when the petition is taken up for hearing, the learned Government Advocate (Criminal side) appearing for the respondents 1 to 5, on instructions, would submit that upon the complaint given by the seventh respondent against these petitioners, the second, third and fifth respondents herein initiated an enquiry and as of now, all the enquiries are pending on the file of the respective Police Stations.

5. It is the grievance of the petitioners that the respondents 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.

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 petitioner may not be the same to the police officer.

9. In order to circumvent such situations, the following guidelines are issued:

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



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 Nos.2, 3 and 5 are 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 directions, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (AS)

// 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 Commissioner of Police, Madurai City,
Madurai.

2. The Assistant Commissioner of Police,
City Crime Branch,
Madurai Old Commissioner Office Campus,

<https://hcservices.courtsofmadurai.org.in/Csctypes/>



3.The Inspector of Police,
Vilakuthoon Police Station, Madurai City.

4.The Inspector of Police,
Theppakulam Police Station, Madurai City.

5.The Inspector of Police,
Anti-Land Grabbing Special Cell,
Madurai City.

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

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VB (09.10.2020) 4P 7C