



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 14/10/2020

PRESENT

The Hon'ble Mr.Justice **G.K.ILANTHIRAIYAN**

W.P(MD).No.5926 of 2016

WEB COPY

P.Muthurakku

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai District,
Madurai.

2.The Assistant Commissioner of Police,
Madurai District,
Madurai.

3.The Inspector of Police,
Thallakulam Police Station,
Madurai District.

4.The Sub Inspector of Police,
Thallakulam Police Station,
Madurai District.

5.Muthammal

... Respondents

Prayer : This petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus forbearing the 4th respondent not to harass the petitioner in the name of enquiry and consequently directing the 4th respondent not to insist the petitioner to transfer the title of the property in Survey No.332/1 of Kannanenthall Village, North Taluk of Madurai District in favour of 5th respondent and to pass any such further or other orders as this Honourable Court may deem fit and proper under the circumstances of the case.

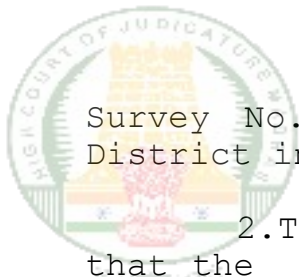
For Petitioner : Mr.G.Sulthan Sha

For R1 to R4 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.side)

For R5 : No Appearance

ORDER

This Writ Petition has been filed seeking a direction to forebear the 4th respondent not to harass the petitioner in the name of enquiry and consequently directing the 4th respondent not to insist the petitioner to transfer the title of the property in



Survey No.332/1 of Kannanenthall Village, North Taluk of Madurai District in favour of 5th respondent.

2.The learned counsel appearing for the petitioner submits that the respondent police harassed the petitioner under the guise of enquiry.

3.The learned Government Advocate (Crl.side) appearing for the respondent police submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending.

4.Heard the learned Counsel for the petitioner and learned Government Advocate (Crl.side) appearing for the respondent police.

5.It is the grievance of the petitioner that the respondent police have been harassing him under the guise of an enquiry/investigation.

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 Article 226 of the Constitution of India 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 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.

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 the enquiry/investigation.



b) The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

c) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

d) 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, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsd

To

1.The Commissioner of Police,
Madurai District, Madurai.

2.The Assistant Commissioner of Police,
Madurai District, Madurai.

3.The Inspector of Police,
Thallakulam Police Station,
Madurai District.

4.The Sub Inspector of Police,
Thallakulam Police Station,
Madurai District.

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

W.P(MD).No.5926 of 2016

14.10.2020

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ARK(CO)

KK(05.11.2020) 3P 6C