



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.3071 of 2021

R.Venkatesh

...Petitioner

vs

1.The Inspector of Police,
Central Crime Branch,
EDF-II, Team IV,
Vepery, Chennai-7.

2.G.Karthick

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the first respondent not to harass the petitioner at the instance of the second respondent complaint which was closed by the Investigating Authority by order dated 27.08.2020.

For Petitioner : Mr.L.Dhamodaran

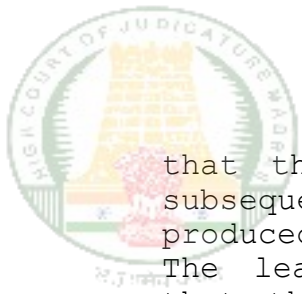
For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This writ petition has been filed for a direction to the first respondent not to harass the petitioner.

2. The case of the petitioner is that there was a commercial transaction with the second respondent and there was some misunderstanding between the parties. The second respondent initially gave a complaint before the first respondent and the same was enquired in C.No.1283 of 2019 and the complaint was closed on 27.08.2020. Thereafter, one more complaint was given by the second respondent before the first respondent and the same was entertained in C.No.632 of 2020. This complaint also was closed after enquiry on 18.11.2020. The grievance of the petitioner is that inspite of two earlier complaints being enquired and closed, the first respondent is repeatedly harassing the petitioner and left with no other option, the present writ petition has been filed before this Court.

3. The learned Additional Public Prosecutor appearing on behalf of the first respondent, on instructions, submitted



that the petitioner was called for an enquiry based on a subsequent complaint wherein the second respondent had produced more incriminating materials against the petitioner. The learned Additional Public Prosecutor further submitted that the first respondent will take a decision strictly in accordance with law on the complaint and will either close the complaint or if a cognizance offence is made out, will proceed to register an FIR based on the said complaint.

4. In the considered view of this Court, the first respondent had enquired the complaint given by the second respondent twice and found that there was no ground to proceed further and closed the complaints. The first respondent, after closing the complaints, cannot keep calling the petitioner repeatedly for enquiry and harass the petitioner. If the defacto complainant is aggrieved by the closure of the earlier two complaints, it is for him to work out his remedy in the manner known to law by filing an appropriate petition before the Magistrate. The second respondent cannot keep on reviving his complaints before the first respondent and keep calling the petitioner for enquiry repeatedly.

5. In view of the above, the first respondent is directed not to harass the petitioner in the name of enquiry. If the second respondent has given any subsequent complaint to the first respondent and if the first respondent is convinced that there is a cognizable offence made out, the first respondent has to proceed further in accordance with law and the first respondent cannot again keep it at a complaint stage and call the petitioner for enquiry. This procedure adopted by the first respondent is not in line with the judgment of the Hon'ble Supreme Court in Lalitha Kumari Vs. Government of Uttar Pradesh reported in 2013 (6) CTC 353. The Hon'ble Supreme Court in its judgment had only said that when there is a commercial transaction, there is scope for some preliminary enquiry before registration of an FIR. In this case, the first respondent had enquired the complaint atleast on two earlier occasions and found that there was no case against the petitioner.

6. In the result, this Writ petition is disposed of with a direction to the first respondent not to harass the petitioner in the name of enquiry unless the subsequent complainant has been taken on file and an FIR has been registered. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

rli



To

1.The Inspector of Police,
Central Crime Branch,
EDF-II, Team IV,
Vepery, Chennai-7.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.L.Dhamodaran, Advocate, S.R.No.9607

W.P.No.3071 of 2021

GPL(CO)
RVM(29/07/2021)