

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.03.2021
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
WP Nos.5014 & 5016 of 2021

N.Duraisamy ... Petitioner in WP No.5014/2016
D.Jayabalan ... Petitioner in WP No.5016/2016

vs.

1. State rep. By
Sub-Inspector of Police,
District Crime Branch,
Superintendent of Police Office,
Thiruvananthapuram District.
2. S.Vinayagam
3. S.Rajesh ... Respondents in both the petitions

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent not to harass the petitioner based on the complaint given by the second respondent.

For Petitioner : Mr. K.Venkat
(in each of the petitions)
For Respondents : Mr.M.Mohamad Riyaz
(in both the petitions) Additional Public Prosecutor,
for R1

C O M M O N O R D E R

These Writ Petitions have been filed seeking for a direction to direct the first Respondent not to harass the petitioners in the name of enquiry without due process of law.

2.Heard the learned counsel appearing for the petitioner in each of the petitions and the learned Additional Public Prosecutor appearing for the first respondent in both the petitions.

3.The learned Additional Public Prosecutor appearing for the first respondent police submits that on the complaint given by the defacto complainant against the petitioners, petition enquiry is pending in C.No.69 of 2020 on the file of the first respondent Police.

4.The petitioners are directed to co-operate with the police for enquiry and at the time of conducting of the enquiry, the petitioners shall not be harassed by the police. The police cannot call the petitioners on a regular basis in the guise of enquiry without even registering an FIR and the Supreme Court of India in Lalitha Kumari Vs. Government of Uttar Pradesh reported in 2013 (6) CTC 353 has enumerated the nature of cases where preliminary enquiry can be conducted and has also restricted the period, for which preliminary enquiry can be conducted. During the course of enquiry, if any cognizable offence is made out, the first respondent Police is free to register an FIR and this order shall not be a shield for the petitioners against the respondents proceeding to take action in accordance with law.

5. These Writ Petitions are disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Sub-Inspector of Police,
District Crime Branch,
Superintendent of Police Office,
Thiruvanamalai District.

2. The Public Prosecutor,
High Court of Madras,
Chennai 600 014.

WP Nos.5014 & 5016 of 2021

PMK(CO)
CSR 23.03.2021