

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2021

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THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

W.P.No.4928 of 2021

M. Kannan

.. Petitioner

Vs

State represented by
The Inspector of Police
Central Crime Branch
Team 27, Forgery Wing
Chennai 600 007

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent "not to harass" the petitioner in Cr.No.68 of 2020 on the file of the Inspector of Police, Team 27, Forgery Wing, Central Crime Branch, Chennai.

For Petitioner : Mr. M.Anandharaj
for Mr.N.Thamizhanban

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

O R D E R

This Writ Petition has been filed for the issuance of Writ of Mandamus directing the ~~respondent~~ police not to harass the petitioner in the name of enquiry in Crime No.68 of 2020.

2. The case of the petitioner is that the respondent police have registered an FIR in Crime No.68 of 2020 against four named accused persons and others. In this FIR, one Kannan has been shown as A-2. According to the petitioner, he has nothing to do with the alleged offence and he has not signed any document and the respondent police instead of securing one K.Kannan are now trying to fix the petitioner, who is M.Kannan. The further case of the petitioner is that the petitioner and his family members are being harassed in the name of enquiry.

3. The learned counsel for the petitioner submitted that the petitioner is not shying away from the investigation and the petitioner is always willing to cooperate for the investigation and he will establish that he has nothing to do with the alleged

offence and he has been wrongly identified as K.Kannan. The learned counsel further submitted that the respondent police can always issue a summon under Section 41A of Cr.P.C. to the petitioner and the petitioner is willing to participate in the enquiry and establish his innocence.

4. The learned Additional Public Prosecutor submitted that the materials collected by the police reveals that it is the petitioner, who is involved in this crime and having come to know that action is taken by the police, the petitioner has filed the present Writ Petition only to confuse the issue. The learned Additional Public Prosecutor further submitted that the respondent police have identified the petitioner as the accused in the present case and the dispute with regard to the identity that is raised by the petitioner, can be ascertained only in the course of investigation. Therefore, the learned Additional Public Prosecutor concluded his arguments by submitting that in a case where FIR is pending against the petitioner, this Court will not issue any directions which will impact the course of the investigation and hence, sought for dismissal of the Writ Petition.

5. A petition for a direction to the police not to harass, used to be entertained as a matter of routine under Section 482 of Cr.P.C. After sometime, such petitions came to be filed even in cases where FIRs were registered against accused persons. In order to curtail such a practice, this Court has consistently held that in a case where FIR is pending against accused person, there is no question of entertaining a petition seeking for the relief of not to harass. This was done since such directions to the police will result in interference into the investigation conducted by the police.

6. This Court took into consideration the judgment of the Hon'ble Supreme Court in Manohar Lal Sharma Vs. Principal Secretary and Others reported in (2014) 2 SCC 532. The Hon'ble Supreme Court made it very clear in this judgment that investigation is the domain of the police and Courts ordinarily do not interfere into such investigation, unless the Court finds on the materials placed before it that there is a breach of statutory provision thereby putting personal liberty or property of the citizen in jeopardy by improper use of power or abuse of power.

7. In the present case, the police have identified the petitioner as accused in Crime No.68 of 2020. The police are in possession of certain materials to justify the stand taken by them and to identify the petitioner as the actual accused person. The ground taken by the petitioner is that there is a wrong identity in this case and the person who is actually involved in this crime is one K.Kannan. If an accused person is

permitted to raise such grounds before the Court at the inception of an investigation, it will open floodgates and every person will come before this Court and start claiming that there is a wrong identity of the person by the police. This Court cannot venture to find out the actual accused person and that is not the purport of the jurisdiction exercised under Article 226 of the Constitution of India. It is too well settled that disputed questions of fact will not fall within the realm of writ jurisdiction.

In view of the above, this Court is not inclined to entertain this Writ Petition and giving any directions in this Writ Petition to the respondent police will result in interference in the investigation conducted by the police. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1 The Inspector of Police
Central Crime Branch
Team 27, Forgery Wing
Chennai 600 007

2 The Public Prosecutor
High Court, Madras

W.P. No.4928 of 2021

CA(CO)
NR 16/04/2021

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