

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No. 8626 of 2021

1.M.Senbhagaselvi
2.P.Gandhimathi
3.A.Muthusamy

.. Petitioners

-vs-

1.The Superintendent of Police,
Coimbatore,
Coimbatore District.

2. The Inspector of Police,
Anaimalai Police Station,
Coimbatore District.

3. P. Padmavathy

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to issue a Writ of Mandamus, directing the 2nd respondent not to harass the petitioners.

For Petitioners : Mr.M.N.Balakrishnan

For RR 1&2 : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking for a direction to direct the second respondent not to harass the Petitioner.

2. The petitioners have been arrayed as accused in Crime No.71 of 2021 for the offences punishable under Sections 294 (b), 323, 324, 506(ii) of IPC.

3. Heard learned counsel for the petitioners and the learned Additional Public Prosecutor (Criminal Side) appearing on behalf of the respondents 1&2.

4. The petitioners 1&2 are the sisters of A1 and the 3rd petitioner is the husband of the 1st petitioner. The father

of the petitioners 1&2 died during the year 2018 leaving behind the petitioners 1&2, their mother viz., Padmavathy and brother namely Senthilkumar/A1.

5. The grievance of the petitioners is that they have been called for enquiry which is only for the purpose of harassing them. It is the case of 1st petitioner that she had lodged a complaint before the second respondent police against her brother Senthilkumar and two others in Crime No.67 of 2021 in respect of property dispute.

6. The 3rd respondent herein had filed a suit in O.S.No.53 of 2021 and the same is pending before the Principal District Munsif Court, Pollachi. She is none other than the mother of Senthilkumar/A1 in Crime No.67 of 2021. She has got falsely registered a case against him in Crime No.71 of 2021.

7. Considering the facts and circumstances of the case and also the specific stand taken by the respondent Police to resort to the procedure under Section 41A of the Code of Criminal Procedure, this Court directs the respondent Police to follow the procedure set out in Section 41A of the Code of Criminal Procedure. The respondent Police shall issue an appearance notice to the accused in the form and manner set out in the proceedings, viz., the Circular Memorandum in RC.No.000252/Crime 4(2)/2019 dated 30.01.2019, as amended vide Circular Memorandum RC.No.000252/Crime 4(2)/2019 dated 07.02.2019. The petitioners shall comply with the terms of the notice and shall also co-operate with the investigation.

8. If the petitioners complies and continues to comply with the terms of the notice he shall not be arrested for the offences referred to therein. If, however arrest is deemed necessary after the appearance of the petitioners, the Investigation Officer shall record reason for such an eventuality as contemplated under Section 41A (3) of the Code of Criminal Procedure, and shall adhere to the directions set out by this Court in State -Vs- Nakeeran Gopal reported in [2019 1 LW (Cr1.) 26]

9. If the petitioners evades service of appearance notice or fails to comply with the terms of the notice or appears to be unwilling to identify themselves when called upon, it shall be open to the respondent Police to proceed under Section 41A(4) of the Code of Criminal Procedure, to arrest the accused.

10. This Criminal Original Petition is disposed of with the aforesaid direction.

Sd/-

Assistant Registrar(CS IV)

msm

To

1. The Superintendent of Police,
Coimbatore,
Coimbatore District.

2. The Inspector of Police,
Anaimalai Police Station,
Coimbatore District.

+lcc to Mr.M.N.Balakrishnan ,Advocate SR.No. 23078

W.P.No. 8626 of 2021

SVI (CO)

A.SK(22.06.2021)



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