

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.No.9861 of 2021

Saradha

... Petitioner

Versus

1.The State Rep.by
The Inspector of Police (Crime),
P-6, Kodungaiyur Police Station,
Chennai 600 118.

2.Mr.Ramesh Kumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the first respondent not to harass the petitioner in the name of enquiry.

For Petitioner : Mr.N.Ganesh
For Respondents : Mr.A.Damodharan
Counsel for Government of
Tamil Nadu (Crl.Side)

ORDER

This petition has been filed to direct the first respondent not to harass the petitioner in the name of enquiry.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

3. On perusal of the records, it is seen that on 10.03.2015, the second respondent's sister is married to the brother of the petitioner and the marriage had taken place in Rajasthan and thereafter, the couples are residing at Ahmedabad. Out of wedlock, she gave birth to a female child on 04.06.2017 at Chennai as the the second respondent is residing there. After birth of the second child on 23.09.2019, she had some health complications and she was admitted in Nichani's Hospital, Royapuram, Chennai. The brother of the petitioner insisted the second respondent to shift her to another

hospital for giving better treatment and hence, she was shifted to MGM Hospital on 10.10.2019 for further treatment. But the second respondent's sister passed away on 05.11.2019. During her stay in the hospital from 10.10.2019 to 05.11.2019, medical expenses were incurred by the second respondent to the tune of Rs.8,68,445/-. The brother of the petitioner has promised to reimburse the medical expenses. But later he failed to do as he promised. Hence, a complaint was lodged before the X Metropolitan Magistrate, Egmore, Chennai, in CrI.MP.No.12997 of 2021. The X Metropolitan Magistrate, Egmore, Chennai, by order dated 17.02.2021 has directed the first respondent to conduct a detailed enquiry since the brother and father of the petitioner and the other two persons mentioned in the complaint are residing at Ahmedabad, which is outside the jurisdiction of the Court. Pursuant to the same, the Kodungaiyur police, on receipt of the said copy of the order, had called the petitioner for enquiry and she appeared and gave her statement on 02.04.2021. Since the other two persons had not attended for enquiry, the first respondent has been constantly harassing the petitioner under the guise of enquiry. Hence, this petition.

4. Considering the submissions on either side, it is seen that the learned X Metropolitan Magistrate, Egmore, Chennai, had directed the first respondent police to conduct an enquiry. It is found in the order of the Lower court that sworn statement of complainant alone recorded and the oral submission made by the learned counsel for the brother of the deceased. The Lower court directed first respondent to conduct detailed enquiry into the matter to find out whether or not there is a sufficient ground to proceed further in this case. Further, in that order, it has been mentioned that the complainant has not given any list of witnesses and the Lower court issued direction to the respondent police to investigate the matter and the issuance of summons is postponed as per Section 202(1) of Cr.P.C. The first respondent was directed to file a detailed report within a period of one month from the date of receipt of the order of Lower court. In furtherance to the same, the petitioner had appeared on 02.04.2021 for enquiry, gave explanation, further to she is being constantly called at odd hours. The petitioner is a lady only sin is that she is sister and daughter of the other two persons named in the complaint.

5. From the averments in the complaint, it is seen that it is a dispute of reimbursement of the medical expenses incurred by the second respondent for his sister. Moreover, the father of the second respondent, who runs a chit business, owe money to the husband of the petitioner in the course of the business. It is further observed that there is no allegation against the petitioner even in complaint or in the sworn statement. The act of the petitioner being called for enquiry frequently is nothing but an harassment. If at all the appearance of the brother and father of the petitioner are

necessary for enquiry, the first respondent has got other means to secure them.

6. In view of the same, this Court directs the first respondent not to harass the petitioner unnecessarily under the guise of enquiry. The petitioner directed to appear before the first respondent police, on one occasion i.e., on 15.06.2021 to give any further explanation, if needed. Thereafter the petitioner not be disturbed or harassed in the guise of enquiry.

7. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gv/dna

To

1. The Inspector of Police (Crime),
P-6, Kodungaiyur Police Station,
Chennai 600 118.
- 2.The X Metropolitan Magistrate, Egmore, Chennai
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.9861 of 2021

JPL (CO)

A.SK (13.07.2021)

सत्यमेव जयते

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