



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.23141 OF 2021

S.Kaviyarasan

... Petitioner

Versus

1. The State Rep. by
The Assistant Commissioner of Police,
The office of the Assistant
Commissioner of Police,
Mylapore Range,
Chennai - 600 004.

2. The Inspector of Police,
E-5, Pattinapakkam Police Station,
Pattinapakkam,
Chennai - 600 028.

... Respondents

PRAYER:-

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the second respondent police not to harass the petitioner under the guise of enquiry/ Investigation based upon the complaint given by the petitioner's wife viz., K.Suchitra.

For Petitioner : Mr.S.Vinoth Kumar

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to direct the second respondent police not to harass the petitioner under the guise of enquiry/Investigation based upon the complaint given by the petitioner's wife viz., K.Suchitra.



2. The grievance of the petitioner is that on a complaint given by his wife Suchitra. The petitioner has been unnecessarily called for enquiry and harassed by the respondent police. Further 41 A Notice has been sent to his office address, which caused annoyance and nuisance to him. He further submits that matrimonial suits are pending before the Sub-ordinate Court, Madurantakam and Family Court, Chengalpet. The boy child is living with the petitioner and the girl baby is living with his wife Suchitra.

3. He further submits that with regard to the custody of the children the petitioner approached the Superintendent of Police and the same was forwarded to the All Women Police Station, Chengalpattu considering the petitioner's children welfare. The petitioner's wife refused to appear before the All Women Police Station, Chengalpattu. As counter blast, the petitioner's wife K.Suchitra gave a petition to CM Cell and the petition was forwarded to All Women Police Station, Mylapore. The police in All Women Police Station, Mylapore assumes the role of the Child Welfare Committee, in taking away the custody of petitioner's son and handing over to his wife Suchitra. For which already enquiry is pending before the Child Welfare Committee, Chennai - South vide L-25/CWCS/025/26/11/2021 dated 26.11.2021.

4. The learned Additional Public Prosecutor submits that the petitioner was called for enquiry. The petitioner failed to appear before the respondent police, since his whereabouts not known. Therefore 41 A notice has been sent to his office address. Thereafter to the petitioner not appeared before the respondent police.

5. The learned counsel appearing for the petitioner on instruction submits that he shall appear before the respondent police and hand over the petition copies of the matrimonial suits and the Child Welfare Committee summons and also give his explanation.

6. Considering the submissions and on perusal of materials and the undertaking given by the learned counsel appearing for the petitioner, this Court directs the petitioner to appear before the respondent police on 13.12.2021 and submit the above said documents. It is made clear that with regard to the custody of the children, it is for the Child Welfare Committee and the appropriate Court to decide the matter and pass appropriate orders and not police to involve in the case of this nature.



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7. With the above directions, this Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner of Police,
The office of the Assistant
Commissioner of Police,
Mylapore Range,
Chennai - 600 004.
2. The Inspector of Police,
E-5, Pattinapakkam Police Station,
Pattinapakkam,
Chennai - 600 028.
3. The Public Prosecutor,
High Court, Madras.

Copy To:-

The Child Welfare Committee (South),
Purasavakkam High Road,
Kellys, Chennai - 10.

+1cc to Mr.S.Vinoth Kumar, Advocate, S.R.No.64271

CRL.O.P.NO.23141 OF 2021

SSV(CO)
PBS/21/12/2021