



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2021

CORAM :

THE HONOURABLE **Mrs. JUSTICE R. HEMALATHA**

Crl.O.P.(MD)No.45 of 2021

P.Alaguraja

... Petitioner

Vs.

1.The Superintendent of Police,
PSP Nagar,
Korampallam,
Tuticorin 628 101.

2.The Deputy Superintendant of Police,
District Crime Branch,
Door No.7A, PSP Nagar,
Korampallam,
Tuticorin.

3.K.P.R.Raja

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to direct the respondent not to harass the petitioner based on the complaint given by the third respondent/defacto complainant, as referred in the summon, dated 24.11.2020 issued by the second respondent and to conduct enquiry if any by affording opportunity to the petitioner by adopting the directions of the Hon'ble Supreme Court.

For Petitioner	: Mr.S.Chandrasekaran
For R1 & R2	: Mr.R.Erottusamy
	Government Advocate (Crl. Side)

ORDER

The petitioner has filed the present petition under Section 482 Cr.P.C praying to direct the respondent Police not to harass him.

2.The primordial contention of the learned counsel for the petitioner is that the first respondent is harassing him in the civil dispute between him and the third respondent.

3.Mr.Erottusamy, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2, on instructions, would
<https://hcservices.ecourts.gov.in/hcservices/>



contend that the third respondent lodged a complaint against the petitioner and the same is registered as Current Petition No.P4/35841/2607/2020 and enquiry is still pending.

4.The respondent Police is directed to follow the guidelines issued in the decision in ***D.K.Basu Vs. State of West Bengal reported in AIR (1997) SC 610, wherein it has been held thus :***

"36.We therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures :

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness. who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.



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(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well.

(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the illaga Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

37. Failure to comply with the requirements hereinabove mentioned shall apart from rendering the concerned official liable for departmental action, also render him liable to be punished for contempt of court and the proceedings for contempt of court may be instituted in any High Court of the country, having territorial jurisdiction over the matter."



5. With the above directions, the Criminal Original Petition is disposed of .

Sd/-

Assistant Registrar (AD-II)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmk

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Superintendent of Police,
PSP Nagar,
Korampallam,
Tuticorin 628 101.

2.The Deputy Superintendant of Police,
District Crime Branch,
Door No.7A, PSP Nagar,
Korampallam,
Tuticorin.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.CHANDRA SEKARAN, Advocate (SR-370[F] dated 06/01/2021)

Crl.O.P.(MD)No.45 of 2021

06.01.2021

PU (CO)

NR (01/02/2021) 4P : 5C