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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.2495 of 2022

V.Magesh

...Petitioner

-Vs-

1.The Commissioner of Police
Office of Avadi Commissionaire,
Bhaktavatsala Puram,
Avadi 600 054.

2.The Inspector of Police,
All Women Police Station,
Avadi.

..Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to direct the respondent Police not to harass the petitioner herein under the guise of investigation pertaining to the complaint pending on the file of respondent Police.

For Petitioner : Ms.A.Shabanal

For Respondents : Mr.V.Meghanathan
Government Advocate(Crl.side)

O R D E R

This petition has been filed seeking direction to the respondents Police not to harass the petitioner under the guise of investigation pertaining to the complaint pending on the file of the respondent Police.

2. The learned counsel appearing for the petitioner submits that the respondent Police harassed the petitioner under the guise of enquiry.

3.The learned Additional Public Prosecutor appearing for the respondents Police submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is



pending in C.S.R.No.115 of 2022 on the file of the respondents police

4. Heard the learned Counsel for the petitioner and learned Additional Public Prosecutor for the respondents police.

5. It is the grievance of the petitioner that the respondents Police have been harassing her under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

6. An enquiry into a non cognizable offence or a cognizable offence is the unfettered powers of the Investigation Officers so long as the power to investigate/enquire into these offences are legitimately exercised within the frame work of Chapter XII of the Code of Criminal Procedure. Though the Code of Criminal Procedure empowers the Magistrate to be a guardian in all the stages of the police investigation, there is no power envisaging him to interfere with the actual investigation or the mode of investigation. It is in this background that numerous petitions complaining of harassment are being reported and filed before this Court seeking for directions to refrain the police officials from harassing the persons named in a complaint.

7. This Court, exercising its power under Section 482 of the Criminal Procedure Code normally would not interfere with the investigation conducted by a police officer. Nevertheless, it would also not turn a blind eye to instances of harassment by the police under the guise of investigation is brought to its notice.

8. In the present case in hand, the petitioner has complained of harassment by the police based on a complaint and seek for this Court's intervention by way of a direction. The term 'harassment' by itself has a very wide meaning and hence, what could be harassment to the petitioner may not be the same to the police officer.

9. In order to circumvent such situations, the following guidelines are issued:

a) While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.

b) The respondent police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant

c) The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.



d) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

e) The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to.

10. However it is made clear that this order does not preclude the respondents in registering a case if offences of cognizable nature are made out and to proceed in accordance with law.

11. With the above observations and direction, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police
Office of Avadi Commissionaire,
Bhaktavatsala Puram,
Avadi 600 054.

2. The Inspector of Police,
All Women Police Station,
Avadi.

3. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.2495 of 2022

SR II(CO)

A.SK(23.02.2022)