

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.2677 of 2022

1.C.Krishnan
2.K.Thangaraj

... Petitioners

Vs

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

2.The Inspector of Police,
Yercaud Police Station,
Salem District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the 2nd respondent Police not to harass the petitioners without due process of law by considering the representation of the petitioners dated 24.01.2022 on the file of the first respondent herein.

For Petitioners : Mr.K.Kalaikovan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This petition has been filed seeking direction to the 2nd respondent Police not to harass the petitioners without due process of law by considering the petitioners representation dated 24.01.2022 on the file of the first respondent herein.

2.The learned counsel appearing for the petitioners submits that the 2nd respondent Police harassed the petitioners 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 petitioners, petition enquiry is pending in C.S.R.No.3 of 2022 on the file of the respondents police

4.Heard the learned Counsel for the petitioners as well as the learned Additional Public Prosecutor for the respondents police and perused the entire materials available on record.

5.It is the grievance of the petitioner that the respondents Police have been harassing them 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 them 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 petitioners have 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 petitioners 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

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vkr/jas
To

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

2.The Inspector of Police,
Yercaud Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.K.Kalai kovan, Advocate Sr.8915

CRL.O.P.No.2677 of 2022

ssn[co]
srg 22/02/2022