



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3784 of 2022

1.Kamalakannan
2.Jayashree

... Petitioners

Vs

1.State Rep. By
The Inspector of Police,
S-6, Shankar Nagar Police Station (Crime)
Shankar Nagar, Pammal,
Chennai 600 075.

2.Gajashree,
W/o.Balamurugan,
No.7, Pari Street,
V.G.P.Santhi Colony,
Pallikaranai, Chennai 600 100.

... Respondents

Prayer:Criminal Original Petition filed under Section 438 Cr.P.C. to direct the 1st respondent not to harass the Petitioners on basis of the frivolous complainant preferred by the defacto complainant/2nd Respondent.

For Petitioners : Mr.R.Chandrasudan

For Respondent : Mr.V.Meganathan,
Government Advocate (crl.side)

O R D E R

This Criminal Original Petition has been filed seeking for a direction to the 1st respondent not to harass the Petitioners on basis of the frivolous complainant preferred by the defacto complainant/2nd Respondent.

2. The learned counsel appearing for the petitioners would submit that the respondent police harassed the petitioners under the guise of enquiry and thereby he seeks direction to the first respondent not to harass the petitioner under the guise of enquiry.



3. Mr.V.Meganathan, learned Government Advocate (Criminal side) appearing for the respondents police would submit that on the complaint given by one Gajashree with regard to cheating, enquiry has been conducted and the same is pending on the file of respondent police. He would further submit that the respondent police are not harassing the petitioners.

4. Heard both sides and perused the materials available on record.

5. It is the grievance of the petitioners that the respondent police have been harassing them under the guise of an enquiry/investigation and hence, have 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 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 respondents police are 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.

(f) In the event of any cognizable offences made out, the respondent police shall register a regular case and follow the procedure in accordance with law.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

shk/sai

To

1. The Inspector of Police,
S-6, Shankar Nagar Police Station (Crime)
Shankar Nagar, Pammal,
Chennai 600 075.

2. The Public Prosecutor,
Madras High Court,
Madras.

+1cc to Mr.R.Chandrasudan, Advocate, S.R.No.10994

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