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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3880 of 2022

Mohammed Sherif ... Petitioner

Vs.

1.State rep by
The Senior Superintendent of Police,
Karaikal District.

2.The Superintendent of Police,
Karaikal North,
Karaikal District.

3.The Inspector of Police,
Karaikal Town Police Station,
Karaikal District.

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, pleaded to direct the 1st and 2nd respondent to consider the representation dated 27.01.2022 duly acknowledged to further direct the 3rd respondent not to harass the petitioner other than due process of law.

For Petitioner : Mr.Swamisubramanian

For Respondent : Mr.Balamurugane

Public Prosecutor(Pondicherry) for R1

O R D E R

This petition has been filed seeking direction to direct the 1st and 2nd respondent to consider the representation dated 27.01.2022 duly acknowledged to further direct the 3rd respondent not to harass the petitioner.

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

3.The learned counsel representing Public Prosecutor (Pondicherry) appearing for the respondents would submit that on the complaint given by one Kauthul Jinnathul, enquiry has been



conducted by the 3rd respondent. The 3rd respondent has issued summons to the petitioner for his appearance and directed to appear before the respondent on 07.02.2022. However, the petitioner has not appeared before the 3rd respondent.

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4. Heard the learned Counsel for the petitioner and learned Public Prosecutor (Pondicherry) for the respondents.

5. It is the grievance of the petitioner that the respondent police has been harassing him 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.

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

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jas/tsh

To

1. The Senior Superintendent of Police,
Karaikal District.

2.The Superintendent of Police,
Karaikal North,
Karaikal District.

3.The Inspector of Police,
Karaikal Town Police Station,
Karaikal District.

4.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.M.Swami Subramanian, Advocate SR.No.11803

Cr1.O.P.No.3880 of 2022

RSI (CO)
GN(16/03/2022)