



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.4498 of 2022

Senthil Kumar

... Petitioner

Vs.

1. State Represented by
The Commissioner of Police,
Type, Qtr No.5/1, HUF Estate,
Bakthavatsala Purama,
Avadi,
Chennai 600 054.
2. The Deputy Commissioner of Police,
Old Municipality Building, 1st Floor,
Avadi,
Chennai 60 054.
3. The Inspector of Police,
T-6, Avadi Police Station,
No.206, Nehru Bazar Road,
Nehru Bazar, Vivekananda Nagar,
TNHB Mig V Block,
Avadi, Chennai 600 054

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondents not to harass the petitioner without due process of law.

For Petitioner : Mr.M.Anandaraj

For Respondents : Mr.A. Gokulakrishnan
Additional Public Prosecutor (criminal side)

For Intervener : Mr.Thirumoorthy

ORDER

This Criminal Original Petition has been filed seeking for a direction to the the respondents not to harass this petitioner.



2. The learned counsel for the petitioner would submit that the third respondent harassed the petitioner under the guise of enquiry and thereby he seeks direction to the respondents not to harass the petitioner in the guise of enquiry.

WEB COPY

3. When the matter is taken up for hearing today, Mr.A.Gokulakrishnan, learned Additional Public Prosecutor (criminal side) appearing for the respondents police would submit that on the complaint given by one Balasubramanyam, enquiry is being conducted in Current Paper No. 27 of 2022 dated 04.02.2022 and the same is pending on the file of the third respondent. He would further submit that the allegations are in respect of job rocketing and the respondents police are not harassing the petitioner.

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

5. It is the grievance of the petitioner that the respondents police have been harassing him 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/her 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 had 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 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 respondents shall register a regular case and follow the procedure in accordance with law.

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

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

srn/ab

To

1. The Commissioner of Police,
Type, Qtr No.5/1, HUF Estate,
Bakthavatsala Purama,
Avadi,
Chennai 600 054.



2. The Deputy Commissioner of Police,
Old Municipality Building, 1st Floor,
Avadi,
Chennai 60 054.

WEB COPY

3. The Inspector of Police,
T-6, Avadi Police Station,
No.206, Nehru Bazar Road,
Nehru Bazar, Vivekananda Nagar,
TNHB Mig V Block,
Avadi, Chennai 600 054

+1cc to Mr.M.Anandaraj, Advocate SR.No.14961

+1cc to Mr.R.Thirumoorthy, Advocate SR.No.14880

CrI.O.P.No.4498 of 2022

RR(CO)
GMY(17/03/2022)