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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6319 of 2022

Captain Jacob Selvaraj

... Petitioner

Vs.

1.The Deputy Commissioner,
St.Thomos Mount,
Chennai.

2.The Inspector of Police,
S-3, Meenambakkam Police Station,
Chennai.

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the respondents to not to harass the petitioner in the guise of enquiry on the basis of the petitioner representation dated 11.03.2022 made to the first respondent.

For Petitioner : Mr.G.Magesh Kumar

For Respondents : Mr.V.Meganathan,
Government Advocate (Criminal side)

O R D E R

The Criminal Original Petition has been filed seeking for a direction to the respondents to not to harass the petitioner in the guise of enquiry on the basis of the petitioner representation dated 11.03.2022 made to the first respondent.

2. When the matter is taken up for hearing, Mr.V.Meganathan, learned Government Advocate (crl.side) would submit that enquiry is pending against the petitioner based on the complaint given by one Venkataraman and Arul Prakash. He would further submit that despite the issuance of summons to the petitioner for enquiry, he had not turned up for enquiry, whereas, he had filed the petition for not to harass.



3. At this juncture, Mr.G.Magesh Kumar, learned counsel for the petitioner would submit that every time summons were served beyond the date. He would reiterate that the petitioner is ready to appear before the respondent for enquiry on or before 28.03.2022.

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

5. It is the grievance of the petitioner that the respondents have been harassing him under the guise of 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 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 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-III)

//True Copy//

Sub Assistant Registrar

shk/sai

To

1.The Deputy Commissioner,
St.Thomos Mount,
Chennai.

2.The Inspector of Police,
S-3, Meenambakkam Police Station,
Chennai.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.G.Magesh Kumar, Advocate SR. No.19301

Cr1.O.P.No.6319 of 2022

SPD (CO)
PR (23/03/2022)