



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6505 of 2022

1.R.Selvaraj

2.Bhuvaneshwari

... Petitioners

Vs.

State Rep by

The Assistant Commissioner of Police,

District Crime Branch,

Namakkal,

Namakkal District.

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the respondents not to harass petitioners based on the complaint dated on 07.01.2022 given by the Defacto Complainant, pending on the file of the respondent police.

For Petitioners : Mr.M.Krishanmoorthy

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

For Intervenor : Mr.Sundaravadhanan

O R D E R

This Criminal Original Petition has been filed to direct the respondents not to harass petitioners based on the complaint dated on 07.01.2022 given by the Defacto Complainant, pending on the file of the respondent police.

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



3. Mr.V.Meganathan, learned Government Advocate (Criminal side) appearing for the respondent would submit that on the complaint given by one V.K.Sundharrajan, enquiry has been conducted in 1) C.No.H2/84/000060/SP-GDP/2022 and 2) C.No.H2/07/DCB/NKL/2022 and the same is pending on the file of the respondent. He would further submit that the respondent is not harassing the petitioner.

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

5. It is the grievance of the petitioners that the respondent has been harassing them 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-V)

// True Copy //

Sub Assistant Registrar

shk/sai

To

1.The Assistant Commissioner of Police,
District Crime Branch,
Namakkal,
Namakkal District.

2.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.A.Sundaravadhanam, Advocate SR.No.20054

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.19058

Cr1.O.P.No.6505 of 2022

MT(CO)

CB(08/04/2022)