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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.7042 of 2022

Kumar ... Petitioner

Vs.

1.The State Represented by,
The Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

2.The State Represented by,
The Deputy Superintendent of Police,
Thiruvannamalai Town Sub Division,
Thiruvannamalai District.

3.The State Represented by,
The Inspector of Police,
Gramiya Police Station,
Thiruvannamalai District,

4. K.Muthu ... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first and second respondents to instruct the third respondent not to harass the petitioner, by considering the petitioner's representation dated 23.03.2022.

For Petitioner : Mr.M.Solaisamy,

For Respondents : Mr.V.Meganathan for R1 to R3,
Government Advocate (criminal side)

O R D E R

This Criminal Original Petition has been filed to direct the first and second respondents to instruct the third respondent not to harass the petitioner, by considering the petitioner's representation dated 23.03.2022.

2. The learned counsel appearing for the petitioner would submit that the first and second respondent harassed the petitioner under the guise of enquiry and thereby he seeks

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direction to the third 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 Muthu, enquiry has been conducted in C.No.4413/SPG/SB/2021 and the same is pending on the file of the third respondent. He would further submit that the third respondent police is 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 third respondent has 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 enquiry or 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 enquiry or 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 for enquiry the guidelines stipulated for preliminary enquiry by the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others

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[2014 (2) SCC (1)] shall be strictly adhered to.

b) 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 mentioning the CSR number, date of complaint and the name of the complainant and he shall also specify the date and time for appearing before them for such enquiry/investigation.

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.

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

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

2.The Deputy Superintendent of Police,
Thiruvannamalai Town Sub Division,
Thiruvannamalai District.

3.The Inspector of Police,
Gramiya Police Station,
Thiruvannamalai District,

4.The Public Prosecutor,
High Court of Madras.

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GPL(CO)
SB(20/04/2022)

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