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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

CORAM:

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

CRL.O.P.No.7316 of 2022

Jessy P.J.

... Petitioner

Vs.

The State rep by
The Forest Range Officer
Bitherkad, Pandalur Taluk,
The Nilgiris District.

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, praying to direct the respondent police not to harass, petitioner children and age old mother in law under the guise of enquiry.

For Petitioner : M/s.L.P.Shanmugasundaram

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to direct the respondent police not to harass the petitioner, her children and her aged mother in law, under the guise of enquiry.

2. The case of the prosecution is that the petitioner's husband is alleged to be involved in a case registered by the Respondent in O.R.No.1 of 2021 for the offence under Chapter I Section 2 (16) (a), Chapter III Section 9, Chapter V Section 39 (1)(d)(3)(c) r/w Chapter VI Section 51 of the Wild Life (Protection) Act, 1972 and that the petitioner's husband is apprehending an arrest for the said offence.

3. Learned counsel for the petitioner would submit that the case of the prosecution is that the petitioner's husband had erected an electrified fence which had caused a death of a Tusker, aged about 4 to 5 years. He would further submit that



the petitioner is an innocent housewife and she does not know about the activities of her husband and her husband, in apprehension of arrest, is away from home, whereas the respondent is continuously harassing the petitioner in the guise of enquiry. He would also submit that the petitioner's 1st daughter is aged about 17 years, studying XI Std in St.Thomas Matriculation School and her son also studying VIII Std in the same school and due to the harassment, the petitioner is unable to take care of her children and her mother-in-law, aged about 65 years.

4. Learned Additional Public Prosecutor appearing for the respondent would submit that a tusker aged about 4 to 5 years was found dead by electrocution near the house of the petitioner. Since, the house of the petitioner is nearby the place of the death of the tusker, the respondent had enquired the petitioner and other than enquiring the petitioner in respect of the death of the tusker, they have not harassed the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

6. It is the grievance of the petitioner that the respondent has been harassing the petitioner and her family, under the guise of enquiry/investigation and hence, the petitioner has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

7. 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.

8. 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.

9. In the present case in hand, the petitioner has complained of harassment by the respondent 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.

10. 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 [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/Crime 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.

11. In this case, now that a regular case in O.R.No.1 of 2021 has been registered by the respondent, the respondent shall follow the procedure by either issuing summons under Sec 160 Cr.P.C or Sec 41-A Cr.P.C and conduct enquiry in accordance with law.

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

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



nr/ham
To

1.The Forest Range Officer,
Bitherkad, Pandalur Taluk,
The Nilgiris District.

2.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.27004

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