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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM

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

W.P.NO.8733 OF 2022

M.Rozario,
S/o.M.C.Mariyanathan

... Petitioner

Vs

1. The Secretary to Government,
(Home Department),
Secretariat, Chennai - 600 004.
2. The Commissioner of Police,
Chennai Metro City,
Vepery, Chennai - 600 007.
3. The Deputy Commissioner of Police,
Mylapore, Chennai - 600 004.
4. The Assistant Commissioner of Police,
Mylapore, Chennai - 600 004.
5. The Inspector of Police,
Mylapore Police Station,
Mylapore, Chennai - 600 004.
6. Balaji
7. Mohan Kumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, prayed for the issuance of Writ of Mandamus, directing the fourth and fifth respondents not to harass the petitioner under civil nature complaint's lodged by the sixth and seventh respondents.

For Petitioner	: Mr.T.V.G.Kartheeban
For Respondents	
For R1 to R5	: Mr.A.Gokulakrishnan
	Additional Public Prosecutor



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ORDER

This writ petition has been filed, to direct the fourth and fifth respondents not to harass the petitioner under civil nature complaint's lodged by the sixth and seventh respondents.

2. The learned counsel for the petitioner would submit that the fifth respondent is unnecessarily harassing the petitioner without there being any complaint against him by anybody. He would further submit that the fifth respondent is compelling the petitioner to settle the brokerage amount to private respondent Nos.6 and 7.

3. Per contra, the learned Additional Public Prosecutor for the first to fifth respondents would submit that the fifth respondent is not unnecessarily harassing the petitioner and he would further submit that based on the complaint given by one Kumar, enquiry has been initiated against the petitioner in C.S.R.No.313 of 2022 and the fifth respondent has issued proper summons to the petitioner for enquiry and it is pending on the file of the fifth respondent.

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, has 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 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 C.S.R 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, this Writ Petition stands disposed of.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

rgm/arb

To

1. The Secretary to Government,
(Home Department),
Secretariat, Chennai - 600 004.



2. The Commissioner of Police,
Chennai Metro City,
Vepery, Chennai - 600 007.

3. The Deputy Commissioner of Police,
Mylapore, Chennai - 600 004.

4. The Assistant Commissioner of Police,
Mylapore, Chennai - 600 004.

5. The Inspector of Police,
Mylapore Police Station,
Mylapore, Chennai - 600 004.

6. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.T.V.G.Kartheeban, Advocate, S.R.No.25453

W.P.No.8733 of 2022

GPL (CO)
RLP (26/04/2022)