

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.8156 OF 2022

B.Vishal

... Petitioner

Vs

1. The Inspector of Police,
J-9, Thuraipakkam Police Station,
Mahabalipuram Road,
Chennai-600 097.
2. The Assistant Commissioner of Police,
J-9, Thuraipakkam Police Station,
Mahabalipuram Road,
Chennai-600 097.
3. Mrs.S.Kalaivani

[R3 impleaded as per order of this Court
in CrI.M.P.No.5180/2022 in CrI.O.P.No.8156/22
dated 20.04.2022]

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondents not to harass the petitioner in pursuance of criminal complaints filed by one Shivashankar or anyone acting on his behalf with respect to any claim of his late mother Mrs.Anandavalli on the file of the Inspector of Police, J-9, Thuraipakkam Police Station, Mahabalipuram Road, Chennai-600 097.

For Petitioner : M/s.A.Shabnam Banu

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor
for R1 & R2
***Mr.G.Mutharasu for R3**

[Counsel for R3 name added
vide order dated 01.07.2022]

ORDER

This petition has been filed seeking direction to the respondent police not to harass these petitioners in connection with Crime No. Not known of 2020 pending on the file of Respondent Police.

2. The learned counsel appearing for the petitioner submits that the respondent police are unnecessarily harassing the petitioner under the guise of enquiry.

3. The learned Additional Public Prosecutor appearing for the respondent police submits that on the complaint given by the defacto complainants against the petitioners, petition enquiry is pending in C.S.R.No.305 of 2020 on the file of the respondent police.

4. Heard the learned Counsel for the petitioner and learned Additional Public Prosecutor for the respondent police.

5. It is the grievance of the petitioner that the respondent police have been harassing them 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 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 petitioners have 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 petitioners 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 minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

c) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

d) 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.

10. Considering the facts and circumstances, the respondent police is directed to conduct the enquiry and if any prima facie case is made out against the petitioner, register the F.I.R or close the petition enquiry within a period of one (1) week from the date of receipt of a copy of this order. The petitioner is directed to cooperate with the enquiry.

11. With the above observation and direction, the Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kas

To

1. The Inspector of Police,
J-9, Thuraipakkam Police Station,
Mahabalipuram Road,
Chennai-600 097.

2. The Assistant Commissioner of Police,
J-9, Thuraipakkam Police Station,
Mahabalipuram Road,
Chennai-600 097.

3. The Public Prosecutor
High Court of Madras
Chennai 600 104.

+1cc to Mr.G.Mutharasu, Advocate, S.R.No.41793

Cr1.O.P.No.8156 of 2022

NRL(CO)
RLP(12/07/2022)