



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.8304 of 2022

P.Pachiyappan

... Petitioner

Vs.

1. State rep by the
Deputy Commissioner of Police,
Adyar, Chennai.
2. State, rep. by the
Inspector of Police,
J-8, Neelangarai Police Station(Crime)
Neelangarai, Chennai.
(Crime No.Un Known)

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the second respondent Police not to harass the petitioner.

For Petitioner : Mr.S.Shanmuga Velayutham

For Respondents : Mr.V.Meganathan
Government Advocate (Crl. Side)

O R D E R

The Criminal Original Petition has been filed to direct the second respondent Police not to harass the petitioner.

2.The learned counsel appearing for the petitioner would submit that one Pongothai had given a complaint against the petitioner during the year 2021. Earlier notice under Section 41 (A) was issued to the petitioner on 12.07.2021 by the second respondent. The petitioner had appeared before the second respondent and he was enquired and it was also informed to the petitioner that the enquiry was closed. Subsequently, a fresh notice has been issued. He would further submit that the respondents police harassed the petitioner under the guise of enquiry.



3.The learned Additional Public Prosecutor appearing for the respondents would submit that one Pongothai has given complaint against the petitioner stating that petitioner had sold a poromboku land claiming to be in his possession and he has received an amount of Rs.90,000/- from her and later, one Pongothai came to know that she was cheated by the petitioner. Thereafter, she gave a complaint and enquiry is being conducted on 08.07.2021. Earlier the petitioner was issued a notice and she has appeared and thereafter, she has failed to co-operate for enquiry. The respondents have issued a fresh notice to the petitioner for appearance on 25.03.2022, 30.03.2022 and 05.04.2022. The petitioner does not turned up for enquiry. He would submit that the respondents are not harassing the petitioner and they have summoned him to appear for enquiry alone.

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 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 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 respondent police is 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.

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

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vkr/nti

To

1. The Deputy Commissioner of Police,
Adyar, Chennai.
2. The Inspector of Police,
J-8, Neelangarai Police Station (Crime)
Neelangarai, Chennai.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.S.Shanmuga Velayutham, Advocate, S.R.No.25410

Cr1.O.P.No.8304 of 2022

SR(CO)
SU(02/05/2022)