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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.9000 OF 2022

G.Srinivasan

... Petitioner

Vs.

1. State: Represented by
The Commissioner of Police,
Salem.

2. The Assistant Commissioner of Police,
Hastampatti, Salem.

3. The Inspector of Police,
Central Crime Branch,
Salem.

... Respondents

PRAYER:

The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the second and third respondent to consider the representation dated 04.01.2022 of the petitioner as the statement of the petitioner and not to harass the petitioner other than due process of law.

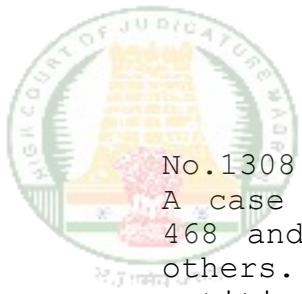
For Petitioner : Mr.Swamisubramian

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

O R D E R

This Criminal Original Petition has been filed to direct the second and third respondents to consider the representation dated 04.01.2022 of the petitioner as the statement of the petitioner and not to harass the petitioner other than due process of law.

2. The learned counsel appearing for the petitioners would submit that the petitioner is the defacto complainant in Crime



No.1308 of 2019 on the file of Ponkunnam Police Station, Kerala. A case has been registered for the offence under Section 406, 468 and 420 of IPC against one Binoy Joseph @ Joseph P.J and others. The victims have also lodged complaints as against the petitioner in respect of which, one case is registered before the Kayamkulam Police Station in Crime No.2922 of 2019 and another case is registered in Crime No.45 of 2020 before the Changanasseri Police Station. The petitioner had filed Writ Petition in W.P(C).No.7086 of 2020 (I) before the Hon'ble Kerala High Court at Ernakulam and the Hon'ble High Court by order dated 10.08.2020 has transferred all the cases to be investigated by the CBCID, Kerala. While so, one Rani, who is alleged to be victim in the petitioner's case in Crime No.1308 of 2019, has given a complaint to the Commissioner of Police, which has been forwarded to the third respondent. The petitioner had appeared before the Inspector of Police to produce all the documents before him whereas, the third respondent is unnecessarily harassing the petitioner.

3. When the matter is taken up for hearing, Mr.V.Meganathan, learned Government Advocate (crl. side) would submit that on the complaint given by one Rani, enquiry has been conducted in C.No.138/ACP/CCB/2021 and the same is pending on the file of the third respondent. He would further submit that the second and third respondents are not harassing the petitioner under the guise of enquiry.

4. Heard both sides and perused the materials available on record.

5. It is the grievance of the petitioner that the second and third respondents have 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.

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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 [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

//True Copy//

Sub Assistant Registrar

shk/sai



To

1. The Commissioner of Police,
Salem.
2. The Assistant Commissioner of Police,
Hastampatti,
Salem.
3. The Inspector of Police,
Central Crime Branch,
Salem.
4. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.Swamisubramian, Advocate, S.R.No.26909

Cr1.O.P.No.9000 of 2022

NR (CO)
PM/04/05/2022