

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.10148 of 2022

S.Shanmugam

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Commissioner of Police,
Salem City, Salem.

2.The Inspector of Police,
Central Crime Branch,
Salem City, Salem.

3.K.Raja

...Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the Respondents not to harass the Petitioner under the guise of enquiry.

For Petitioners : Mr.Charles Kamalesh M.Appaji

For Respondents : Mr.V.Meganathan for R1 & R2
Government Advocate (Cr1. side)

O R D E R

This Criminal Original Petition has been filed to direct the respondents not to harass the petitioner under the guise of enquiry.

2. The learned counsel appearing for the petitioner would submit that the first and second respondents harassed the petitioner under the guise of enquiry and thereby he seeks direction to the first and second respondents police not to harass the petitioner under the guise of enquiry.

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 the third respondent,

enquiry has been conducted in C.No.115/ACP/CCB/Salem City/2022 and the same is pending on the file of the second respondent. He would further submit that the first and second 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 first and second 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.

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 (CS-VIII)

//True Copy//

Sub Assistant Registrar

shk/sai

To

1.The Commissioner of Police,
Salem City, Salem.

2.The Inspector of Police,
Central Crime Branch,
Salem City, Salem.

3.The Public Prosecutor,
High Court of Madras.

CrI.O.P.No.10148 of 2022

SKM (CO)
PR (12/05/2022)