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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.11901, 11858 & 11863 of 2021

R.Viswanathan	...Petitioner in Crl.O.P.No.11901 of 2021
A.C.Janarthanam	...Petitioner in Crl.O.P.No.11858 of 2021
B.Mohammed Yusuf Fazil	...Petitioner in Crl.O.P.No.11863 of 2021

Vs.

1.The Commissioner of Police,
Vepery, Chennai.

2.The Inspector of Police,
Central Crime Branch (CCB),
Bank Fraud Team, Vepery,
Chennai.

...Respondents in all Crl.O.P.'s

COMMON PRAYER: The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, pleaded to issue direction to the respondents for not to harass and not to disturb the petitioner family.

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

COMMON ORDER

These Criminal Original Petitions have been filed seeking to issue direction to the respondents for not to harass and not to disturb the petitioners' family.

2. The learned counsel appearing for the petitioners would submit that the second respondent harassed the petitioners under the guise of enquiry and thereby they seeks direction to the second respondent police not to harass the petitioners 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 enquiry has been conducted in C.No.PG/3407/30884/2021 dated 15.04.2021 and the same is pending on the file of the second respondent. He would further submit that the second respondent is not harassing the petitioners under the guise of enquiry.

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

5. It is the grievance of the petitioners that the second respondent has been harassing them 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 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 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 Petitions stand disposed of.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ham/rgi

To

1.The Commissioner of Police,
Vepery, Chennai.

2.The Inspector of Police,
Central Crime Branch (CCB),
Bank Fraud Team, Vepery,
Chennai.

3.The Public Prosecutor,
High Court of Madras.

Crl.O.P.Nos.11901, 11858 & 11863 of 2021

MT(CO)
SP(27/04/2022)