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CrI.O.P.No.22165 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.22165 of 2022

1.S.Sandhya
2.P.S.Subramani
3.S.Divakaran
4.S.Saranya
5.S.Lakshmiprabha

...Petitioners

-Vs-

1.The Superintendent of Police,
Villupuram District,
Villupuram.

2.The Inspector of Police,
Anti Land Grabbing Special Cell,
District Crime Branch, Villupuram,
Villupuram District.

3.Ponnusamy

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to direct the 2nd respondent police not to arrest the petitioners when they appear for enquiry on 12.09.2022 based on the summons issued by the 2nd respondent dated 07.08.2022 in view of the complaint by the 3rd respondent/defacto complainant.



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For Petitioners : Mr.R.Balaguru Swamy
For Respondents 1 and 2 : Mr.S.Santhosh
Government Advocate (Crl.side)
For Respondent 3 : Mr.V.G.Anbarasu

ORDER

This Criminal Original Petition has been filed seeking direction to respondents police not to harass the petitioners under the guise of enquiry.

2.The learned counsel appearing for the petitioners would submit that the respondents police harassed the petitioners under the guise of enquiry.

3.The learned Government Advocate (Crl.side) appearing for the respondents police would submit that the petition enquiry is pending in C.No.383/DSP/ALGSC/VPM/2022.

4. Heard the learned Counsel for the petitioners and learned Government Advocate (Crl.side) for the respondents police



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5. It is the grievance of the petitioners that the respondents 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



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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 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 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



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persons called upon for enquiry/investigation.

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

15.09.2022

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
nr/rgm

To

- 1.The Superintendent of Police,
Villupuram District,
Villupuram.
- 2.The Inspector of Police,
Anti Land Grabbing Special Cell,
District Crime Branch, Villupuram,
Villupuram District
- 3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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