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Crl.O.P.No.25434 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.25434 of 2022

1.Rajiallah

2.Sheik Badusha

...

Petitioners

/vs/

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

2.The Deputy Superintendent of Police,
District Crime Branch,
Cuddalore District.

3.The Inspector of Police,
District Crime Branch,
Cuddalore District.

4.The Sub Inspector of Police,
District Crime Branch,
Cuddalore District.

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to direct the fourth respondent police not to harass the petitioners without due process of law.

For Petitioners

... Ms.S.Varsha

For Respondents

... Mr.A.Damodaran

Additional Public Prosecutor



ORDER

This Criminal Original Petition has been filed seeking a direction to the fourth respondent police not to harass the petitioners without due process of law.

2. Heard the learned Counsel for the petitioners and learned Additional Public Prosecutor for the respondents.

3. The learned counsel appearing for the petitioners submits that the respondent police harassed the petitioners under the guise of enquiry.

4. The learned Additional Public Prosecutor appearing for the respondent police has submitted that on the complaint given by the defacto complainant against the petitioners, a petition enquiry is pending in C.S.R.No.1675 of 2022, on the file of the fourth respondent police.

5. The petitioners have alleged that there is a civil dispute between the petitioners and one Shanmugam. It is submitted that the petitioners were not even allowed to submit their facts when they present for enquiry before the police. It is further submitted that the petitioners are ready to co-operate for the enquiry provided they are not harassed by the police.



WEB CODE

6. Since the investigation of a criminal case is the prerogative of the police, no interference can be made by the Courts normally. However, if it is brought to the knowledge of the Court that harassment is being done to any one in the name of investigation, the aggrieved should not be left without any remedy. In the case in hand, the petitioners have alleged that they are being harassed by the police on the complaint given by the defacto complainant. If the preliminary enquiry of the police itself reveals that it is a matter of civil in nature, the fourth respondent ought to have relegated the parties to the appropriate forum by dropping further action on the complaint. It is seen that the civil case is being given with criminal colour and hence a direction should be given to the fourth respondent police not to harass the petitioners in the name of enquiry.

7. In the result, this Criminal Original Petition is disposed. The following directions have been given to the fourth respondent while conducting enquiry in the complaint:

(i) The police officer shall send the written summon for enquiry under Section 160 of Cr.P.C by mentioning the time and date for



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appearance for enquiry and also about the name of the person whose complaint is taken for enquiry.

(ii) The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the concerned police station.

(iii) The fourth respondent should ensure that no harassment is caused to the petitioners either physically or mentally by the police officer or any other officer of the department while enquiring the petitioners or other witnesses in this regard.

(iv) The essential guidelines laid down by the Hon'ble Supreme Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)]**, shall be strictly followed.

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Index: Yes/No
Internet: Yes/No
gsk/shk



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- 4.The Sub Inspector of Police,
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- 5.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA ,J.

gsk/shk

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