



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WEB COPY

W.P(MD) .No. 3432 of 2022

Pramila

... Petitioner

Vs.

1. The Director General of Police,
Office of the Director General of Police,
Post Box No.601,
Dr.Radhakrishnan Salai,
Mylapore,Chennai-600 004.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Thanjavur District.
3. The Inspector of Police,
Ammapettai Police Station,
Thanjavur District.
4. The Inspector of Police,
Kumbakonam West Police Station,
Thanjavur District.
5. The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.

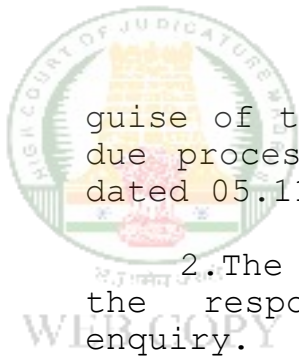
... Respondents

Prayer : This petition is filed under Article 226 of Constitution of India, To issue a writ, order or direction, more particularly in the nature of a writ of mandamus directing the Respondents to not to harass the petitioner and her children in guise of the enquiry regarding the petitioner's husband without any due process of law based on the representation of the petitioner dated 05.11.2021.

For Petitioner : Mr.S.Ramsundarvijayaraj
For Respondents : Mr.R.M.Anbunithi
No. 1 to 5 Additional Public Prosecutor

ORDER

This Writ Petition is filed seeking direction to direct the respondents to not to harass the petitioner and her children in
<https://hcservices.ecourts.gov.in/hcservices/>



guise of the enquiry regarding the petitioner's husband without any due process of law based on the representation of the petitioner dated 05.11.2021.

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

3.The learned Additional Public Prosecutor appearing for the respondent police submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending.

4.Heard the learned Counsel for the petitioner and learned Additional Public Prosecutor appearing for the respondent police.

5.It is the grievance of the petitioner that the respondent police have been harassing him under the guise of an enquiry/investigation.

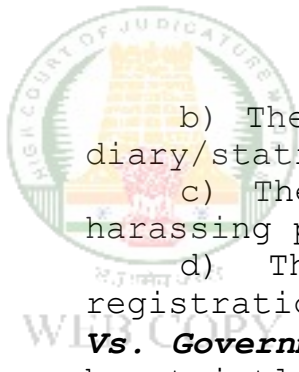
6. An enquiry into a non cognizable offence or a cognizable offence is the unfettered powers of the Investigation Officers so long as the power to investigate/enquire into these offences are legitimately exercised within the frame work of Chapter XII of the Code of Criminal Procedure. Though the Code 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 Article 226 of the Constitution of India normally would not interfere with the 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 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 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 the Court for 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 persons called upon for enquiry/investigation.
- 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, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Director General of Police,
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Mylapore,Chennai-600 004.
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4. The Inspector of Police,
Kumbakonam West Police Station, Thanjavur District.
5. The Inspector of Police,
Thanjavur Taluk Police Station, Thanjavur District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.RAMSUNDARVIJAYRAJ, Advocate (SR-8145[F]
dated 23/02/2022)

W.P (MD).No.3432 of 2022

23.02.2022

SK(CO)

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