



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) Nos.5333 and 5335 of 2021

Crl.O.P (MD) No.5333 of 2021

Anwar Bismi

... Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City.

2. The Inspector of Police,
Melapalayam Police Station,
Tirunelveli District.

... Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to issue a direction in order to directing the Respondents No.2 not to harass the petitioner in the guise of enquiry by considering the petitioner's representation dated 11.03.2021 and pass appropriate order.

For Petitioner : Mr.A.Abdul Kabur

For Respondents : Mr.B.Thanga Aravindh

Government Advocate (Criminal Side)

Crl.O.P (MD) No.5335 of 2021

Sahul Hameed Baathusah

... Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City.

2. The Inspector of Police,
Melapalayam Police Station,
Tirunelveli District.

... Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to issue a direction in order to directing the Respondents No.2 not to harass the petitioner in the guise of enquiry by considering the petitioner's representation dated 11.03.2021.

For Petitioner : Mr.A.Abdul Kabur

For Respondents : Mr.B.Thanga Aravindh

Government Advocate (Criminal Side)



C O M M O N O R D E R

The Criminal Original Petitions have been filed seeking a direction to direct the second respondent not to harass the petitioners in the guise of enquiry by considering the petitioners' representation dated 11.03.2021.

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

3.The learned Government Advocate appearing for the respondent police submits that on the complaint given by the defacto complainant against the petitioners, petition enquiry is pending on the file of the respondent police.

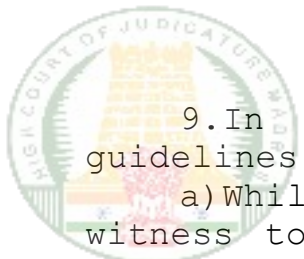
4.Heard the learned Counsel for the petitioners and learned Government Advocate for the respondent police.

5.The grievance of the petitioners is that the respondent police had 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 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 petitioners may not be the same to the police



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 respondent police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant

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/investigation.

e)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 Petitions are disposed of.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

To:

1. The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City.
2. The Inspector of Police,
Melapalayam Police Station, Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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