



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.04.2022

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.8992 of 2022

Suyambulingam

... Petitioner

Vs.

1. The Deputy Inspector General of Police,
No.4, St.Thomas Road,
Maharaja Nagar,
Tirunelveli.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Kanyakumari District.
3. The Inspector of Police,
Special Force,
Nagerkovil Sub-Division,
Kanyakumari District.
4. The Inspector of Police,
Special Force,
Kanyakumari Sub-Division,
Kanyakumari District.

... Respondents

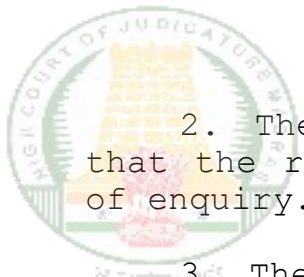
Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the second respondent to direct the third and fourth respondent to not to harass or threaten the petitioner for foisting false cases by considering the petitioner's representation, dated 05.04.2022.

For Petitioner : Mr.R.L.Dhilipan Pandian

For R-1 to R-4 : Mr.R.M.Anbunithi
Additional Public Prosecutor

O R D E R

This petition has been filed seeking direction to the second respondent to direct the third and fourth respondent to not to harass or threaten the petitioner for foisting false cases by considering the petitioner's representation, dated 05.04.2022.



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 for the respondent police.

5. It is the grievance of the petitioner that the respondent police have been harassing them under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 226 of the Constitution of India.

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 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 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 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, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

btr

To

1. The Deputy Inspector General of Police,
No.4, St.Thomas Road,
Maharaja Nagar,
Tirunelveli.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Kanyakumari District.
3. The Inspector of Police,
Special Force,
Nagerkovil Sub-Division,
Kanyakumari District.
4. The Inspector of Police,
Special Force,
Kanyakumari Sub-Division,
Kanyakumari District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P (MD).No.8992 of 2022
29.04.2022

MGJ(23.05.2022) 3P 6C