



Crl.O.P.(MD)No.16027 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.09.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

Crl.O.P.(MD)No.16027 of 2022

1.K.James

2.Kamaraj

... Petitioners

/vs./

1.The Superintendent of Police,
Kanyakumari District.

2.The Inspector of Police,
District Crime Branch,
Nagercoil, Kanyakumari District.

3.The Sub-Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, 1973, to direct the second and third respondents not to harass the petitioners under the guise of enquiry.

For Petitioners : Mr.G.Cenil

For Respondents : Mr.R.Meenakshi Sundaram

Additional Government Pleader



CrI.O.P.(MD)No.16027 of 2022

WEB COPY

ORDER

The Petitioners have filed this Criminal Original Petition seeking for a direction to the Second and Third Respondents not to harass the Petitioners under the guise of enquiry.

2.Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor takes notice for the Respondent/s.

3.The learned Counsel appearing for the Petitioners submitted that the First Petitioner is the son of the Second Petitioner and the Second Petitioner had entered into a civil Contract regarding construction of a building with one Shreeja Mary, who appears to be the wife of a retired Police Officer and she is running a beauty parlour. As per the contract, the Second Petitioner has to construct the building as per her plan and a copy of the contract is also enclosed along with this Petition. Due to Covid-19 spread, the Government had imposed lock down. Therefore, the Second Petitioner could not complete the project within the specified time, as per the Contract.



Cr1.O.P.(MD)No.16027 of 2022

WEB COPY

4.It is further submitted by the learned Counsel appearing for the Petitioners that after relaxation of the Covid-19 lock down restrictions, when the Second Petitioner proceeded with the construction, he was prevented by the other party and the said Shreeja Mary. She had preferred a complaint with the District Crime Branch, instead of local police, using the influence that her husband is a retired Police Officer, due to which, the Second and Third Respondents are frequently summoning the Petitioners.

5.It is further submitted by the learned Counsel appearing for the Petitioners that the First Petitioner had completed ITI and proposed to join an Engineering College. If he is summoned very often, his education will be affected.

6.The objection of the learned Counsel appearing for the Petitioners is that the dispute of civil nature has been converted into a criminal case by the defacto complainant, by misusing the influence that her husband is a retired Police Officer, only to cause harassment to the Petitioners. Therefore, he seeks for a direction against the Respondents 1 to 3 not to harass the Petitioners herein.



CrI.O.P.(MD)No.16027 of 2022

WEB COPY

7.The learned Additional Public Prosecutor appearing for the Respondent/s vehemently objects to the line of arguments of the learned Counsel appearing for the Petitioners stating that there is outstanding amount of Rs.7,32,000/- with the Petitioners. Therefore, the complainant, Shreeja Mary had lodged a complaint with the Respondents. Based on the complaint to hold an enquiry regarding the genuineness of the complaint, the Respondents had issued summons to the Petitioners, against which, the Petitioners have approached this Court. Hence, he objects to the request of the Petitioners seeking for a direction to the Respondents not to harass the Petitioners.

8.On consideration of the rival submissions, the fact is that summons had been issued to the Petitioners by the Third Respondent regarding the complaint of Shreeja Mary. It is found to be fair, as per the directions of the Hon'ble Supreme Court in **Arnesh Kumar vs. State Of Bihar & Anr [2014 (8) SCC 273]** and **Lalitha Kumari Vs. Government of Uttar Pradesh [2013 (6) CTC 353]** to hold enquiry. The Petitioners need not be arrested, since the Hon'ble Supreme Court clearly stated that the accused for offences attracting punishment less than seven



Crl.O.P.(MD)No.16027 of 2022

years need not be arrested. The accused can be summoned and enquired by the police officials and after investigation of the case, they can lay a final report before the Court concerned.

9.In the light of the reported rulings of the Hon'ble Supreme Court in **Arnesh Kumar & Lalitha Kumari's cases** (supra) the objection of the learned Counsel appearing for the Petitioners is found to be unreasonable. The petitioners are directed to appear before the respondents 2 and 3 to cooperate with the pending enquiry. They can always approach this Court for appropriate relief as and when circumstance warrants. However, the Respondents 1 to 3 are directed to act as per law, in the light of the above guidelines issued in **Arnesh Kumar & Lalitha Kumari's cases** (supra). This Criminal Original Petition is disposed of.

14.09.2022

Index : Yes / No
Internet : Yes / No
sm



WEB COPY



Crl.O.P.(MD)No.16027 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

Sm

TO:

- 1.The Superintendent of Police,
Kanyakumari District.
- 2.The Inspector of Police,
District Crime Branch,
Nagercoil, Kanyakumari District.
- 3.The Sub-Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

Order made in
Crl.O.P.(MD)No.16027 of 2022

Dated:
14.09.2022