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Crl.OP.No.661 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.661 of 2023

1.A.Baskar @ Pragalanadane
2.S.Sakthivel

... Petitioners

Vs.

1.The Commissioner of Police,
Avadi Range,
Avadi, Chennai – 600 054.

2.The Inspector of Police,
T-7, Tank Factory Police Station, Avadi,
Chennai.
(Crime No.not known/2023)

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to
direct the respondent police not to harass the petitioners on the guise of enquiry.

For Petitioners : Mr.R.Perumalswamy

For Respondents : Mr.S.Santhosh
Government Advocate (Criminal Side)



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ORDER

This Criminal Original Petition is filed for directing the respondent police not to harass the petitioners on the guise of enquiry.

2. The learned counsel for the petitioners submitted that one A.J.Paul and his sister namely A.J.Nirmala had executed a registered Power of Attorney deed dated 11.07.2022, in respect of their property in Survey No.286/58B6 in favour of the petitioners. The adjacent owner namely one Johnson Thomas disputed the boundary of the property covered under the Power of Attorney deed. The petitioners filed a Writ Petition in W.P.No.24345 of 2022 against the District Collector, Thiruvallur and the Tahsildhar, Thiruvallur seeking direction to the 2nd respondent to consider the petitioners' representation dated 05.07.2022 to measure the land and to earmark the property. This Court directed the 2nd respondent to consider the petitioners' representation dated 05.07.2022 and pass appropriate orders. The surveyor measured the property and boundary was fixed. Even thereafter, Johnson Thomas and his relatives are disturbing the petitioners' possession. Therefore, the petitioners filed a Suit in O.S.No.251 of 2022, on the



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file of the District Munsif Court, Ambatur seeking relief of permanent injunction and not to interfere with the possession of petitioners' property. Johnson Thomas also filed a suit in O.S.No.259 of 2022, on the file of the District Munsif Court, Ambatur for the relief of permanent injunction. Both the suits are pending. Thereafter, a vicious complaint was given against the petitioners. The respondent police under the pretext of enquiry is unnecessarily harassing the petitioners. Therefore, this petition is filed.

3. The First Information Report was registered in Crime No.552 of 2022 for the offence under Section 447, 506 (i) of IPC and 3(1) of The Public Property (Prevention of damage and Loss) Act, 1992. However, the 1st petitioner is not shown as an accused in this case, on the basis of the aforesaid First Information Report.

4. The learned Government Advocate (Criminal Side) submitted that on the basis of the complaint given by Johnson Thomas, the First Information Report in Crime No.552 of 2022 was registered against the 2nd petitioner



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S.Sakthivel. He further submitted that the 1st petitioner is not required in this case in Crime No.552 of 2022. However, respondent police is enquiring only the 2nd petitioner in respect of Crime No.552 of 2022.

5. Heard the learned Counsel for the petitioners and learned Government Advocate (crl.side) for the respondent Police.

6. 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.

7. 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 officer.

8. In order to circumvent such situations, the following guidelines are



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issued:

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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**



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Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to.

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f) If any cognizable offence is committed, then it is open to the respondent police to take appropriate action or else they should not interfere with the civil dispute between the parties.

9. .With the above directions, this Criminal Original Petition is disposed of.

12.01.2023

Internet : Yes / No

Index : Yes / No

Speaking/Non speaking order

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To

1. The Commissioner of Police,
Avadi Range,

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Avadi, Chennai – 600 054.

2.The Inspector of Police,
T-7, Tank Factory Police Station, Avadi,
Chennai.

3.The Public Prosecutor,
Madras High Court.

G.CHANDRASEKHARAN,J.

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