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Crl.OP.No.840 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.840 of 2023

K.Sivakumar

... Petitioner

Vs.

1.State rep by
The Inspector of Police,
J3, Guindy Police Station,
Chennai.

2.D.Kasthuri.

... Respondents

PRAYER:

This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first respondent or any police officer subordinate to him or under him not to harass the petitioner and his family members unnecessarily in an unlawful manner at the instigation of second respondent.

For Petitioners : Mr.R.Natarajan

For Respondent : Mr.S.Santhosh
Government Advocate(Crl.side) for R1



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ORDER

This Criminal Original Petition has been filed to direct the first respondent or any police officer subordinate to him or under him not to harass the petitioner and his family members unnecessarily in an unlawful manner at the instigation of second respondent.

2. The learned counsel for the petitioner submitted that the petitioner filed a suit against the second respondent in O.S.No.2366 of 1994 seeking relief of permanent injunction not to interfere with the possession of the petitioner's house property. The suit was decreed in favour of the petitioner. Thereafter, the second respondent violating the Court order, interfered with the possession of the petitioner. Therefore, the petitioner filed E.P.No.3711 of 2021 on the file of the XIV Assistant Judge, City Civil Court, Chennai, to punish the second respondent. While the said EP was pending, the second respondent executed the settlement deed in favour of her daughter. Challenging the execution of settlement deed, the petitioner filed W.P.No.21492 of 2022. In the said writ petition, this Court directed the District Registrar to consider the petitioner's representation and pass appropriate orders. Thereafter, the District Registrar sent a notice to the petitioner



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and second respondent for enquiry with regard to allegation of fabricating the documents. Then a false complaint was given against the petitioner before the first respondent. On the basis of the false complaint given by the second respondent, the first respondent is harassing the petitioner to withdraw the EP and other proceedings. Hence the petitioner filed this Criminal Original Petition.

3. The learned Government Advocate (Criminal side) submitted that the petition enquiry is pending.

4. Heard the learned Counsel for the petitioner and learned Government Advocate (Crl.Side) for the respondent police.

5. It is seen from the submissions made by the learned counsel for the petitioner and the records produced that he had established his possession in respect of the suit property in O.S.No.2366 of 1994. Thereafter, for violating the Court order and interfering with the possession of the petitioner by the 2nd respondent, the petitioner filed EP. It is also alleged that, pending EP, second respondent executed the settlement deed in favour of her daughter. Challenging the execution of the settlement deed, the proceedings are pending before the District Registrar. Taking all these factors into account, this Court directs the first



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respondent not to interfere with the civil dispute.

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6. 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.

7. 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 second 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



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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.

8. With the above direction, the Criminal Original Petition stands disposed of.

12.01.2023

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

nsa

To

1.The Inspector of Police,
J3, Guindy Police Station,
Chennai.

2.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN,J.

nsa

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