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Crl.OP.No.3385 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.3385 of 2023

Sharmila Shah

... Petitioner

Vs.

1.State represented by
Inspector of Police,
J-2, Adyar Police Station (Crime),
Adayar, Chennai – 600 020.

2.Land Marvel Homes
Represented by its Partner
M.Palaniappan,
No.62/63, 1st Floor, L.B Road,
Adyar, Chennai 600 020.

... Respondents

PRAYER in both Crl.O.P's: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first respondent not to harass the petitioner under the guise of enquiry based on the complaint of 2nd respondent received by the respondent police.

For Petitioner : M/s. Raman and Associates

For Respondent : Mr.S.Santhosh (For R1)



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For R2

Government Advocate(Crl.side)
: No appearance

ORDER

These Criminal Original Petitions have been filed to direct the first respondent not to harass the petitioner under the guise of enquiry based on the complaint of 2nd respondent received by the respondent police.

2.The learned counsel for the petitioner submitted that money lenders had advanced money to 2nd respondent. They formed consortium and filed suit for recovering of money and other relief against the 2nd respondent. Petitioner is part of the consortium of the money lender and they filed civil suit in C.S.No.71 of 2019 and the same was dismissed. Aggrieved by the same, petitioner filed appeal in O.S.A.No.163 & 164 of 2020 and it is pending. On the basis of the complaint given by the 2nd respondent, 1st respondent is frequently harassing the petitioner under the guise of enquiry.

3.The learned Government Advocate (Crl. Side) submitted that, one Palaniappan has given complaint before the IXth Metropolitan Magistrate,



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Chennai under Section 156(3) of Cr.P.C in Crl.M.P.No.1455 of 2021, in which, learned Magistrate gave a direction to the respondent police to register a case and investigate the matter and submit a report on or before 2022. In pursuance to the direction given by the learned IXth Metropolitan Magistrate, Chennai, 1st respondent has issued summons to the petitioner. However, she has not appeared for enquiry.

4.It is the grievance of the petitioner that the respondent police has been harassing her under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

5.In the present case in hand, the petitioner had 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.

6.In order to meet such situations, the following guidelines are 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 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.

7. With the above observations and direction, the Criminal Original Petition stands disposed of.

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Index : Yes / No
Speaking / Non Speaking order

To

1. The Inspector of Police,
J-2, Adyar Police Station (Crime),
Adayar, Chennai – 600 020.
- 2.The Public Prosecutor,
High Court of Madras, Chennai.



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G.CHANDRASEKHARAN,J.

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