



Crl.O.P.No.9686 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2023

CORAM:

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

Crl.O.P.No.9686 of 2023

Gunasekaran

...Petitioner

Vs.

1.The State rep by
The Superintendent of Police,
Salem District.

2.The Inspector of Police
Sankagiri Police Station,
Salem District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to direct the 2nd respondent not to harass the petitioner in any
manner except by due process of law pursuant to the representation dated
21.04.2023.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.S.Santhosh
Government Advocate (crl.side)



WEB COPY



Crl.O.P.No.9686 of 2023

ORDER

This petition has been filed seeking direction to the 2nd respondent not to harass the petitioner in any manner except by due process of law pursuant to the representation dated 21.04.2023.

2.The learned counsel appearing for the petitioner submits that the respondent police harassed the petitioner under the guise of enquiry.

3.The learned Government Advocate (crl.side) 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 Government Advocate (crl.side) for the respondent police.

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



Crl.O.P.No.9686 of 2023

WEB COPY

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 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.



Crl.O.P.No.9686 of 2023

WEB COPY

8.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.

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



Crl.O.P.No.9686 of 2023

WEB COPY

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 Criminal Original Petition stands disposed off.

04.05.2023

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

vk

To

1. The Superintendent of Police,
Salem District.

2. The Inspector of Police
Sankagiri Police Station,
Salem District.

3. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.9686 of 2023

G.K.ILANTHIRAIYAN, J

vkf

Crl.O.P.No.9686 of 2023

04.05.2023