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Crl.O.P.No.12910 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.12910 of 2023

T.M.Kandavel

...Petitioner

Vs.

The Inspector of Police,
Crime Branch
D-1, Triplicane Police Station,
Chennai – 600 002.

...Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to direct the respondent to not to harass the petitioner under the guise of investigation in pursuant to the petitioner representation dated 02.05.2023.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent :Mr.Leonard Arul Joseph Selvam
Government Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed to direct the respondent to not to harass the petitioner under the guise of investigation in pursuant to the petitioner representation dated 02.05.2023.



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WEB COPY 2. The learned counsel for the petitioner submitted that one Vishwanathan was tenant under the petitioner. He gave a complaint against the petitioner alleging the non-return of lease amount paid by him to the petitioner. On the basis of the complaint given in civil dispute, respondent is unnecessarily harassing the petitioner. Therefore, this petition is filed.

3. In response, the learned Government Advocate (Criminal side) submitted that, above said Vishwanathan, came as tenant under the petitioner. There was a lease agreement between the petitioner and the said Vishwanathan and in pursuance of the lease agreement, Vishwanathan paid a sum of Rs.5,65,000/- to the petitioner. The property leased out to Vishwanathan was taken possession by Punjab National Bank by initiating proceedings under SARFAESI Act. Vishwanathan sought for the return of Rs.5,85,000/- and a sum of Rs.95,000/- given as advance as per the lease agreement, but the petitioner did not return the amount. On the basis of the complaint given by Vishwanathan, petition enquiry in C.S.R.No.995 of 2019 is pending.



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4. Considered the submissions and perused the records.

5. 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.

6. 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 petitioners may not be the same to the police officer.

7. In order to meet such situations, the following guidelines are issued:

a) While summoning any person named in the complaint or any



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witness to the incident complained of, the police officer shall summon such person through a summon/notice 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.

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

09.06.2023

Index: Yes/No
Speaking/Non speaking order
ep



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To

1.The Inspector of Police,
Crime Branch
D-1, Triplicane Police Station,
Chennai – 600 002.

2.The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN, J.

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