



Criminal Original Petition No.15247 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.15247 of 2023

1.Suresh Krishna
S/o.Ponnusamy

2.Ponnusamy
S/o.Kondappa Gounder

...Petitioners

Vs

1.The Superintendent of Police,
Office of Superintendent of Police,
Tiruppur District.

2.The Deputy Superintendent of Police,
Kangeyam Circle,
Kangeyam, Tiruppur District.

3.The Inspector of Police,
Uthukuli Police Station,
Tiruppur District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to quash the summons dated 27.06.2023 issued by the second respondent against the petitioners.

For Petitioners : Mr.M.Guruprasad

For Respondents : Mr.A.Damodaran

Additional Public Prosecutor

ORDER



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This petition has been filed challenging the notice issued u/s.41-A of the Code of Criminal Procedure, 1973, dated 27.06.2023 by the second respondent.

2. The sum and substance of the allegation is that the petitioners are being harassed by the respondent police in a civil transaction between the parties. Earlier, an attempt was made to issue summons u/s.160 and Section 91(1) Cr.P.C. and the same was challenged before this Court in CrI.O.P.No.5391 of 2023 and this Court quashed the summons by order dated 09.03.2023. Thereafter, the respondent police have chosen to issue notice u/s.41-A Cr.P.C. In view of the same, the petitioners have alleged that the respondent police are continuously harassing the petitioner and are attempting to interfere with the civil disputes between the parties.

3. Learned Additional Public Prosecutor filed a status report. The status report has been signed by the Deputy Sub-Inspector of Police, Kangeyam Sub-division. It is seen from the status report that enquiry is pending in four current papers and the details of the same are as follows:



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- (i) P1/E 4481496/485/SP GDP/2023, dated 06.04.2023;
(ii) P1/E 4481509/486/SP GDP/2023, dated 06.04.2023;
(iii) P1/E 4540864/530/SP GDP/2023, dated 17.04.2023; and
(iv) P1/E 4530838/520/SP GDP/2023, dated 18.04.2023.

4. The petitioners are directed to co-operate with the police for enquiry and at the time of conducting the enquiry, the petitioners shall not be harassed by the police. The police cannot call the petitioners on a regular basis in the guise of enquiry without even registering an FIR and the Supreme Court of India in *Lalitha Kumari Vs. Government of Uttar Pradesh* reported in **2013 (6) CTC 353** has enumerated the nature of cases where preliminary enquiry can be conducted and has also restricted the period, for which preliminary enquiry can be conducted. During the course of enquiry, if any cognizable offence is made out, the respondent police is free to register an FIR and this order shall not be a shield for the petitioners against the respondent police proceeding to take action in accordance with law.

N.ANAND VENKATESH, J



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gm

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

24.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm

To

- 1.The Superintendent of Police,
Office of Superintendent of Police,
Tiruppur District.
- 2.The Deputy Superintendent of Police,
Kangeyam Circle,
Kangeyam, Tiruppur District.
- 3.The Inspector of Police,
Uthukuli Police Station,
Tiruppur District.
- 4.The Public Prosecutor,
High Court, Madras.

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