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Crl.O.P.No.21278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.9.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.21278 of 2023

1.M.Athaur Rahman
2.M.Mohammed Junaid

...Petitioners

Vs.

1.The Commissioner of Police,
Greater Chennai Police,
Office of the Commissioner of
Police, Vepery, Chennai.

2.The Assistant Commissioner of
Police, B2, Esplanade Police
Station, Law & Order Division,
Chennai-104.

3.The Inspector of Police,
B2, Esplanade Police Station,
Law & Order Division,
Chennai-104.

...Respondents

Criminal Original Petition under Section 482 of the Criminal Procedure Code praying to direct the respondents 2 and 3 not to harass the petitioners under the guise of enquiry.

For Petitioners : Mr.N.A.Nissar Ahamed, SC for
Mr.I.Kowser Nissar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed seeking to direct the respondents not to harass the petitioners under the guise of enquiry.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.

3. The learned Additional Public Prosecutor appearing for the respondents submits that on the complaint given by the defacto complainant against the petitioners, petition enquiry is pending in C.S.R.No.479 of 2023 on the file of the third respondent.

4. The petitioners are directed to co-operate with the police for enquiry and at the time of conducting of 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 the case of ***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 third respondent is free to register an FIR and this order shall not be a



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shield for the petitioners against the third respondent proceeding to take action in accordance with law.

5. With the above directions, the Criminal Original Petition is closed.

19.9.2023

Index : Yes/No
Speaking Order : Yes/No

To

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Office of the Commissioner of
Police, Vepery, Chennai.
- 2.The Assistant Commissioner of
Police, B2, Esplanade Police
Station, Law & Order Division,
Chennai-104.
- 3.The Inspector of Police,
B2, Esplanade Police Station,
Law & Order Division,
Chennai-104.
- 4.The Public Prosecutor,
High Court, Madras.

ssr

N.ANAND VENKATESH,J



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