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Crl.OP.No.32333 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32333 of 2022

G.Venkatesan

... Petitioner

Vs.

1.The Superintendent of Police,
District Thiruvallur,
Thiruvallur.

2.The Inspector of Police,
E-1, Thirumullaivoyal Police Station,
Thirumullaivoyal, Chennai 600 062.

3.Gopal

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the first respondent to consider the representation dated 22.12.2022 by not to harass the petitioner by second respondent Inspector of Police, T 10, Thirumullaivoyal Police Station in the guise of enquiry.

For Petitioner

: Mr.S.Ravichandran

For Respondent

: Mr.S.Santhosh for R1 & R2
Government Advocate(Crl.side)



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ORDER

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This Criminal Original Petition has been filed to direct the second respondent police not to harass the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner had sold the property to the third respondent in the year 1983. Thereafter, the petitioner's brother Srinivasan filed a suit for injunction in O.S.No.174 of 1997 before the District Munsif Court, Ambattur. The suit was dismissed. Against the dismissal of the suit, appeal has been filed in A.S.No.4 of 2004 and the appeal was adjudicated infavour of the petitioner's brother Srinivasan. Then, the third respondent filed second appeal in S.A.No.1281 of 2005. The second appeal was dismissed with a direction to the third respondent to work out his remedy by way of filing a suit for partition. Instead of filing a suit for partition, the third respondent had given a complaint to the second respondent, making false allegation and on the basis of the complaint, the petitioner is being harassed by the second respondent police.



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3. The learned Government Advocate (Crl.Side) appearing for the respondents 1 & 2 submitted that on the basis of the complaint given by the third respondent, the petition enquiry is pending in C.No.1907 of 2022.

4. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondents 1 & 2.

5. This Court on going through the submissions made by the learned counsel for the petitioner and the judgment passed in S.A.No.1281 of 2005, finds that the issue with regard to purchase of property was adjudicated in favour of the petitioner's brother and direction was given to the third respondent to work out his remedy by way of filing a partition suit. Therefore, it is not appropriate on the part of the third respondent to give police complaint in a civil dispute.

6. It is the grievance of the petitioner that the respondent has 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.



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7. In the present case in hand, the petitioner has 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.

8. 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 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.



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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.

9. With the above direction, the Criminal Original Petition stands disposed of.

03.01.2023

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

shk



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G.CHANDRASEKHARAN,J.

shk

To

- 1.The Superintendent of Police,
District Thiruvallur,
Thiruvallur.
- 2.The Inspector of Police,
E-1, Thirumullaivoyal Police Station,
Thirumullaivoyal, Chennai 600 062.
- 3.The Public Prosecutor,
High Court of Madras.

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