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Crl.OP.No.32600 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32600 of 2022

Rajathilagam

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Lawspet Police Station,
Puducherry
Crime No. Not Known of 2022

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C.,
to direct the Respondent Police not to harass the petitioner.

For Petitioner

: Mr.B.Kumarasamy

For Respondent

: Mr.V.Balamurugane
Public Prosecutor (Pudhucherry)

ORDER

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



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2. The learned counsel for the petitioner submitted that one Therse Fransouva Saila Abraham is the owner of the property comprised in .S.F.No.76, R.S.F.No.239 pt, patta No.9 having an extent of east-west 11.5 meter, south - north 23.0 meter to an extent of 265 sq.meter ie., 2852ft. When she was alive, she entered into sale agreement with one Malliga. The said Malliga filed a suit in O.S.No.9 of 2007 before the Principal District Judge, Puducherry for relief of specific performance. Pending suit, Therse Fransouva Saila Abraham died. and no steps have been taken to implead legal heirs. That resulted in dismissal of the suit in O.S.No.19 of 2007. Thereafter, legal heirs of Therse Fransouva Saila Abraham had entered into partition among themselves on 15.06.2021 through registered document in Doc.No.10724 of 2021. The legal heirs had executed power of attorney deed in favour of the petitioner. Pursuant to the power of attorney deed, the petitioner had entered into sale agreement with one Amirthalingam on 20.09.2021. On 25.10.2022, the power of attorney deed executed by the legal heirs of Therse Fransouva Saila Abraham was canceled by them. On the basis of the complaint given by Amirthalingam, the respondent police is harassing the petitioner. Therefore the present petition is filed.



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3. The learned Public Prosecutor for Puducherry submitted that on 27.05.2022 itself the property in dispute was sold to one Rajaganapathi by the legal heirs of Therse Fransouva Saila Abraham in Document No.5574 of 2022. Knowing the fact that the property was already sold, petitioner had created sale agreement with Amirthalingam and thereafter the said Amirthalingam has given a complaint. He further submitted that the consideration amount of R.s.1,37,00,000/- was received by the petitioner, on the basis of the sale agreement dated 29.01.2022. In this regard, enquiry is being conducted and there is a possibility of registering the FIR.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) for the respondent.

5. 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.



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6. In order to meet such situation, 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 second 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.



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

04.01.2023

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To

1. The Inspector of Police,
Lawspet Police Station,
Puducherry
2. The Public Prosecutor,
High Court of Madras, Chennai.



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G.CHANDRASEKHARAN,J.

Sma

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