



Crl.O.P.(MD)No.2677 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.02.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

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Sampath

... Petitioner

Vs.

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Theni District.

2. The Inspector of Police,
District Crime Branch,
Theni District.

3. Muthulakshmi

4. Rajarathinam

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the first Respondent Police to instruct the second Respondent Police shall not to harass the Petitioner under the guise of enquiry without any case.

For Petitioner	: Mr.K.Prakash
For R1 & R2	: Mr.B.Thanga Aravindh Additional Public Prosecutor
For R-4	: Mr.C.Mayilvahana Rajendran



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ORDER

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The learned Counsel for the Petitioner submitted that the Petitioner had filed this petition seeking direction the Respondent Police not to harass the Petitioner under the guise of an enquiry.

2.The learned Counsel for the Petitioner submitted that the Petitioner is running a Bharath Gas Agency at Unjalamman Bharat Gas Agency, near Udhaya Hospital, Allinagaram, Theni District. He had been running the same for more than 10 years. Originally, the Petitioner commenced business at a partnership firm along with the fourth Respondent. Subsequently, the fourth Respondent because of the dispute between the petitioner and the fourth Respondent had withdrawn from the business. Now the Bharath Gas Agency is running as the proprietorship of the Petitioner. The third Respondent working as an Accountant cum cashier. While so, the Petitioner received a message from his Auditor that an amount of Rs.50,00,000/- (Rupees Fifty Lakh only) is missing. In the meanwhile, the third Respondent did not attend her duty. Therefore, the Petitioner called the third Respondent through his mobile phone to enquire her, but she did not attend the phone calls. Therefore, the Petitioner lodged a complaint with the second Respondent regarding misappropriation of Rs.50,00,000/- (Rupees Fifty Lakh only). Subsequently, the third Respondent had given a



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complaint against the Petitioner with the first Respondent. The first Respondent had forwarded the complaint to the Sub-Inspector of Police, All Women Police Station, Theni. Subsequently, the Sub-Inspector of Police, All Women Police Station, Theni, enquired the complaint and came to the Petitioner's Gas Agency and conducted enquiry with the staff regarding sexual harassment against the Petitioner herein. In the meanwhile, the Petitioner understood that the former partner of the Petitioner, who is the fourth Respondent had given a complaint to the first Respondent. Now, the complaint of the third Respondent is pending with the Deputy Superintendent of Police, District Crime Branch. Therefore, the Petitioner herein was harassed by the Officials of the Police Department, Theni District. Therefore, the Petitioner was forced to file this Petition seeking direction against the Respondents not to harass him.

3.The learned Counsel for the fourth Respondent had entered appearance and he had also submitted that there had been dispute between the fourth Respondent and the Petitioner herein. As per the complaint of the fourth Respondent, the Petitioner is alleged to have misappropriated the money, based on which the fourth Respondent had given a complaint to the Superintendent of Police Theni, which was forwarded to the Deputy Superintendent of Police, District Crime Branch, Theni.



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4.The learned Government Advocate (Criminal side) on instructions from the Respondents 1 and 2 submitted that the Petitioner had come forward by filing this petition stating that the Respondents 1 and 2 are alleged to have threatened the Petitioner based on the complaint of the fourth Respondent. Only if the Petitioner compromise with the fourth Respondent, only if the Petitioner settles the dues of compromise with the fourth Respondent, they will be able to proceed against the complaint of the Petitioner against the third Respondent that is the version claimed by the Petitioner herein. The complaint of the fourth Respondent was earliest to the complaint of the Petitioner regarding misappropriation of Rs.50,00,000/- (Rupees Fifty Lakh only) and claimed to be informed by his Auditor which is not true. Therefore, the learned Government Advocate (Criminal side), seeks for dismissal of this petition, as it is not maintainable.

5.Considering the rival submissions of the learned Counsel for the Petitioner and the learned Counsel for the fourth Respondent, the Petitioner is directed to appear before the Respondent Police either before the Deputy Superintendent of Police, Theni or the Inspector of Police, Theni as the case is regarding enquiry based on the complaint of the fourth Respondent.

Since the All Women Police Station is not a party in this case, this Court



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does not issue any direction against the Petitioner regarding the complaint of the third Respondent.

6.Since the Petitioner is the complainant regarding misappropriation of the amount by the third Respondent who was earlier working as an Accountant cum Cashier with the Petitioner, the Petitioner as a complainant is duty bound to co-operate with any investigation by the Respondent Police. When the Petitioner claims that his employee misappropriated the amount which was informed to him only by Auditor and when the former partner/fourth Respondent of the Petitioner had engaged the Counsel and disputes the claim of the Petitioner stating that he himself had given a complaint against the Petitioner, the Petitioner has to necessarily appear before the District Crime Branch. The Inspector of Police or the Deputy Superintendent of Police, District Crime Branch, Theni is directed to follow the guidelines of the Hon'ble Supreme Court regarding conduct of the enquiry and registration of the cases, after issuing summons with specified time and date for the appearance of the parties.

7.In the light of the submissions made by the learned Counsel for the Petitioner, learned Counsel for the fourth Respondent and the learned Government Advocate (Criminal side), either the Deputy Superintendent of



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Police, District Crime Branch or the Inspector of Police, Theni shall issue summons as stated in ***Lalitha Kumari Vs. State of Uttar Pradesh*** reported in ***(2014) 2 SSC 1*** and ***Arnesh Kumar Vs. State of Bihar and another [2014 (8) SCC 273]***. The Petitioner as a citizen of this Country is duty bound to co-operate with the Police investigation.

8. With the above said direction, this Criminal Original Petition is closed.

21.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
jbr

To

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Theni District.
2. The Inspector of Police,
District Crime Branch,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

jbr

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