



Crl.O.P.(MD)No.3799 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)No.3799 of 2024

M.Karthick

... Petitioner

VS

**1.The Commissioner of Police,
Madurai City, Madurai.**

**2.The Inspector of Police,
Mattuthavani Police Station,
Madurai City.**

3.Shibhu

...Respondents

**PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying, to direct the second Respondent not to harass the Petitioner in the
guise of enquiry.**

**For Petitioner :Mr.R.Rajesh
For R1 and R2 :Mr.M.Veeranthiran
Government Advocate (crl.side)**



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ORDER

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The Criminal Original Petition had been filed seeking a direction to the second Respondent not to harass the Petitioner in the guise of enquiry.

2.The learned Counsel for the Petitioner submitted that the Petitioner is alleged to have entered into a transaction with the third Respondent herein, who is serving as Naval Officer in the Indian Navy. Based on the contract between the third Respondent and the Petitioner for the supply of sheet cutting machines, the Petitioner was granted money through bank transaction. Subsequently, the Petitioner could not provide the machinery in time. Therefore, the third Respondent is alleged to have approached the Respondents 1 and 2, on the ground that he is serving as Naval Officer, misusing his official position, had influenced the Respondents 1 and 2 to register a case against the Petitioner. Since it was purely a civil transaction, the Respondent Police purely a civil transaction, the Respondent Police attempted to register a case and harassing the Petitioner. Therefore, the Petitioner had filed this Petition seeking a direction against the Respondents 1 and 2 not to harass the Petitioner.



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3.The learned Government Advocate (Crl.side), on instructions from the Respondent Police, submitted that the third Respondent had placed orders for the supply of sheet cutting machines. The Petitioner herein offered to supply the same to the third Respondent. The order was placed on the basis of the request by the third Respondent. As per the submissions of the learned Counsel for the third Respondent, the third Respondent is in the acting service as a Naval Officer. He had assisted his friend, Kirish.

4.The learned Government Advocate (Crl.side) submitted that the third Respondent had voluntarily retired from the Navy and has started shopping bag business in the name and style of “M/s.Foursome Exploits Private Limited”. For the enquiries by the third Respondent, the Petitioner herein had given a quotation, dated 24.04.2023 for Rs.7,05,640/- for the required machinery. Consequently, the third Respondent had transferred the said amount of Rs.7,05,640/- to the Petitioner's bank account through NEFT on 18.05.2023. The learned Government Advocate (Crl.side) submitted that it was a bank loan obtained by the third Respondent, which was transferred to the Petitioner herein. Further, the Petitioner herein had delayed the



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delivery of the machinery by claiming various excuses. Therefore, the third Respondent directed the Petitioner either to refund the money or to expeditiously deliver of the machinery. After waiting patiently, the third Respondent had approached the Commissioner, Madurai City Police. The Commissioner, Madurai City Police, forwarded the complaint of the third Respondent to the Deputy Commissioner of Police, who in turn, forwarded to the second Respondent. When the second Respondent enquired, the Petitioner herein appeared before the second Respondent and submitted that he will delivery the machinery by 09.11.2023. Even after 09.11.2023, he had not delivered the machine or refund the money. Therefore, the third Respondent was forced to give a second complaint. Instead of appearing before the second Respondent, the Petitioner had approached this Court seeking direction not to harass the Petitioner.

5.From the status report filed by the second Respondent, it is found that the Petitioner having received the money for supply of machine to the third Respondent, now claims that the third Respondent had been serving in the Navy and his friend only had proceeded with the business. Since the complaint lodged by the third Respondent stating that the Petitioner had not



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delivered the machinery and had received money, it is for the Petitioner to co-operate with the pending enquiry.

6.As per the reported ruling of the ***Lalitha Kumari Vs. State of Uttar Pradesh*** reported in ***(2014) 2 SSC 1*** and the case of ***Arnesh Kumar Vs. State of Bihar and another*** reported in ***2014 (8) SCC 273***, the Respondent Police are within their powers to conduct enquiry. If cognizable offence is made out, they can register the case and proceed with the investigation. Therefore, as a citizen of this country, the Petitioner is duty bound to co-operate with the pending enquiry. The Petitioner is directed to co-operate with the pending enquiry.

In the result, this ***Criminal Original Petition*** is dismissed. The second Respondent shall act as per the reported ruling of the ***Lalitha Kumari Vs. State of Uttar Pradesh*** reported in ***(2014) 2 SSC 1*** and the case of ***Arnesh Kumar Vs. State of Bihar and another*** reported in ***2014 (8) SCC 273***, by issuing summons by giving out the date and time of the enquiry.

Internet :Yes/No

12.03.2024

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NCC :Yes/No
cmr

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To

1.The Commissioner of Police,
Madurai City, Madurai.

2.The Inspector of Police,
Mattuthavani Police Station,
Madurai City.



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SATHI KUMAR SUKUMARA KURUP, J.

cmr

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