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Crl.O.P.(MD) No.7712 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.05.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

CRL.O.P (MD) No.7712 of 2024

Mathankumar

... Petitioner

Vs.

1. The Superintendent of Police,
Tirunelveli,
Tirunelveli District.
2. The Additional Superintendent of Police,
District Police Office,
Tirunelveli,
Tirunelveli District.
3. The Deputy Superintendent of Police,
Ambasamudram,
Tirunelveli District.
4. The Inspector of Police,
Ambasamudram Police Station,
Ambasamudram,
Tirunelveli District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct respondents 2 and 3 not to harass the petitioner under the guise of enquiry.

For Petitioner : Mr.N.Vignesh



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For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

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O R D E R

This petition has been filed seeking direction to Respondents 2 and 3 police not to harass the petitioner under the guise of enquiry.

2.The learned counsel appearing for the petitioner submits that the petitioner has given a complaint to the respondents stating that he was abducted by some persons, who have threatened the petitioner under the instigation of one Dr.Krishnapriya by stating that they are the Special Police Team and demanded to accept that the petitioner has received a sum of Rs.20 Lakhs. In this regard, the petitioner has given a complaint on 24.04.2024. Thereafter, on 02.05.2024 and 07.05.2024, the respondent police called the petitioner for enquiry and the petitioner has also appeared. But instead of taking action against the police officials and the said Dr.Krishnapriya, the respondent police have threatened the petitioner and forcibly obtained a statement as if



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he has received a sum of Rs.20 Lakhs. Thereafter, on 08.05.2024, the petitioner sent a representation to the 1st respondent narrating all the respondents. However, no action has been taken.

3. The learned counsel further submits that the Additional Director General of Police has issued a circular stating that the police should refrain from enquiring or interfering in civil matter like money dispute, land dispute etc. Despite the circular, the 2nd respondent is harassing the petitioner. Hence, the present petition.

4. The learned Additional Public Prosecutor appearing for the respondent police submits that the petition enquiry is pending, on the file of the respondent police.

5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the respondent police.



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6. It is the grievance of the petitioner that the respondent police have 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.

7. An enquiry into a non cognizable offence or a cognizable offence is the unfettered powers of the Investigation Officers so long as the power to investigate/enquire into these offences are legitimately exercised within the frame work of Chapter XII of the Code of Criminal Procedure. Though the Code of Criminal Procedure empowers the Magistrate to be a guardian in all the stages of the police investigation, there is no power envisaging him to interfere with the actual investigation or the mode of investigation. It is in this background that numerous petitions complaining of harassment are being reported and filed before this Court seeking for directions to refrain the police officials from harassing the persons named in a complaint.



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8. This Court, exercising its power under Section 482 of the Criminal Procedure Code normally would not interfere with the investigation conducted by a police officer. Nevertheless, it would also not turn a blind eye to instances of harassment by the police under the guise of investigation is brought to its notice.

9. In the present case, 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.

10. 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



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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 minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

c)The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

d)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.

11. With the above observations and direction, the Criminal Original Petition stands disposed of.

23.05.2024

NCC : Yes/No
Internet:Yes/No
Index:Yes/No
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Ambasamudram,
Tirunelveli District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

abr

ORDER IN
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