



Crl.O.P.(MD) No.10157 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.O.P (MD) No.10157 of 2024

Govindaraj

... Petitioner

Vs

1. The Inspector of Police,
Sivakasi East Police Station,
Sivakasi,
Virudhungan District.

2. Amos Jeyasingh
Legal Department,
Standard Fire Works Factory Pvt Ltd,
Velayutharastha Road,
Sivaksi, Virudhunagar District.

3.The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.



Crl.O.P.(MD) No.10157 of 2024

4.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 600 004.

... Respondents

***(*R3 & R4 suo-motu impleaded by this
Court vide order dated 18.07.2024)***

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the first respondent herein not to harass the petitioner and not to interfere the dispute pending between the petitioner and the second respondent in the cases in S.T.C.No.1489 of 2019 on the file of the VII Metropolitan Magistrate George Town, Chennai and STC No.1065 of 2019 and 2066 of 2019 on the file of the learned Judicial Magistrate No.I, Sivakasi.

For Petitioner	: Mr.J.Jeyakumaran,
For R1	: Mr.M.Sakthi Kumar Government Advocate (Crl.Side)
For R2	: Mr.M.Dinesh Hari Sudarsan

ORDER

This criminal original petition has been filed seeking a direction to the first respondent not to harass the petitioner and not to interfere the dispute pending between the petitioner and the second respondent.



Crl.O.P.(MD) No.10157 of 2024

2.The learned Counsel for the petitioner submits that the petitioner is a dealer in cracker business. In the year 2017, the petitioner had some transaction with the second respondent company and he has purchased some crackers from the second respondent. He claims that he has paid the amount and the unsold crackers were also returned to the second respondent. However, for this business transaction, the second respondent has demanded more money from the petitioner, exercised his influence with the Assistant Commissioner of Police, Flower Bazar Police Station, Chennai, where the Panchayat was conducted and the petitioner was forced to sign in an agreement and also to part with ten cheques bearing Nos.158806 to 158809 and 158811 to 158818, Axis Bank Limited, K.K.Nagar Branch, Chennai. Only then he was released from the illegal custody. The petitioner has also filed an Insolvency Petition before the Principal District Court, Virudhunagar at Srivilliputhur under Sections 10, 11 and 19 of the Provincial Installment Act, 1920 and the same has been numbered as I.P.No. 5 of 2018 and notices were issued in the Insolvency Petition. While so, the second respondent with the cheques, which have been extracted in the Flower Bazar Police Station, Chennai has filed a complaint under Section 138 of Negotiable Instruments Act before the VII Metropolitan Magistrate



Crl.O.P.(MD) No.10157 of 2024

Court, George Town, Chennai in S.T.C.No.149 of 2019 and 2 other complaints under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate No.I, Sivakasi in S.T.C.No.1065 of 2019 and 1066 of 2019 and the same are pending. While so, yet another complaint has also been lodged before the respondent police and the respondent police is now harassing the petitioner to settle the issue with the second respondent and the issues, which are pending in S.T.C.Nos.1489, 1065 and 1066 of 2019.

3.Considering the submissions of the learned Counsel appearing for the petitioner, this Court has verified with the respondent police about the nature of complaint, which has been lodged as against the petitioner. The complaint of the second respondent, dated 08.01.2024, is placed before this Court. On perusal of the same, it is found that the nature of the complaint is purely a business transaction in the course of business and some materials have been given by the second respondent to the petitioner. The complaint also discloses the cheques given by the petitioner on 07.10.2018 and 11.10.2018 and the complaints initiated under Section 138 of Negotiable Instruments Act in S.T.C.Nos.1065, 1066 and 1489 of 2019.



Crl.O.P.(MD) No.10157 of 2024

WEB COPY

4.The grievance of the second respondent is that the cheque is only for a part amount of Rs.50,00,000/- and for the balance amount, the petitioner has not provided any cheque. Therefore, he has expected the respondent police to recover the amount from the petitioner. This Complaint has also been mechanically forwarded by the Superintendent of Police, Virudhunagar, for investigation. Now, the respondent police is conducting a petition enquiry as against the petitioner in C.No.G3/1581/109/2024, dated 08.01.2024.

5.This application with the averment of harassment has been filed by the petitioner before this Court on 03.07.2024. The respondent police is also keeping the petition enquiry for the past six months. The Police Standing Orders 562 prescribes the involvement of the police officer in civil disputes and apart from that every year, the Director General of Police, Tamil Nadu, is also issuing circulars directing the police officers not to interfere in the civil disputes. However the police officers in the Southern Districts are spending most of their time in dealing with the civil disputes. The number of petitions filed seeking direction to the police officers not to interfere in



Crl.O.P.(MD) No.10157 of 2024

the civil disputes before this Court in the year 2023 alone is 1163. From January 2024 to June 2024, 453 such petitions have been filed.

6.The first respondent is having a justification that the complaint has been referred by the Superintendent of Police, Virudhunagar District and therefore, he is conducting the petition enquiry. The process of conducting a petition enquiry is not authorised under the Criminal Procedure Code. However, the Hon'ble Supreme Court felt that in certain offences like matrimonial dispute, civil disputes and money disputes, a preliminary enquiry can be conducted by the police officers before registering an FIR. The Hon'ble Supreme Court in ***Lalitha Kumari Vs. State of Uttar Pradesh*** reported in ***(2014) 2 SSC 1***, had given an outline that an enquiry should be conducted within a period of two weeks. In this case, the complaint has been kept pending for the past six months. The nature of the complaint is that in the business transaction, the petitioner has received goods, gave a cheque only for a sum of Rs.50,00,000/- and has failed to give cheque for the remaining amount. The petitioner's cheque was also produced before the trial Court.



Crl.O.P.(MD) No.10157 of 2024

7.Considering the manner in which, the complaint has been dealt with, this Court by earlier order, dated 09.07.2024, has directed the Superintendent of Police, Virudhunagar District, to file a counter affidavit as to the reasons for referring this nature of complaint for enquiry and the reasons for keeping the complaint pending for the past six months. The Superintendent of Police, Virudhunagar District, has filed his counter affidavit stating that the complaints are received by him are forwarded to the concerned Police Station under his jurisdiction. It appears that the Superintendent of Police, Virudhunagar, while forwarding the complaint, has not applied his mind whether any criminal offence is made out or not. The Superintendent of Police, Virudhunagar District, has justified that some genuine matters are there. So even if it is a civil case, it can be ascertained only after conducting a proper investigation whether it is a civil in nature or having any criminal background. With regard to the second query raised by this Court as to the reasons for keeping the petition enquiry pending for the past six months, the Superintendent of Police, Virudhunagar District, has justified that the first respondent police has received the complaint on 11.01.2024 and no action was taken on the complaint by the then Inspector of Police, namely, Rameshraj and recently, he has issued directions to the



CrI.O.P.(MD) No.10157 of 2024

police Stations under his jurisdiction to speed up the long staying petitions forwarded by him and therefore, the first respondent police has opened the enquiry again and issued summons to the petitioner. However, immediately, the petitioner has approached this Court.

8.Considering this statement of the Superintendent of Police, Virudhunagar District, this Court has verified with the respondent police and ascertained the manner, in which, the summon has been issued and. A copy of the summon has also been produced before this Court. It appears that the respondent police has issued the summons on 24.06.2024 under Section 160 Cr.P.C. Section 160 Cr.P.C. is extracted hereunder:

"160. Police officer's power to require attendance of witnesses.

(1)Any police officer making an investigation under this Chapter may, by order in writing require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required :

Provided that no male person [under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person] [Substituted for the



Crl.O.P.(MD) No.10157 of 2024

words "under the age of fifteen years or woman" by Criminal Law (Amendment) Act, 2013] shall be required to attend at any place other than the place in which such male person or woman resides.

(2)The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence."

9.This is a power conferred on a Police Officer to require attendance of the witnesses during the course of the investigation. The process of investigation would commence only after registering an FIR under Section 154 Cr.P.C. However, summons have been issued under Section 160 Cr.P.C., in a petition enquiry and also the same was kept pending for more than six months.

10.This is not the first instance. This Court has already come across such an interference of the police officers in civil matters. A Police Officer is expected to analyze the nature of the complaint and has to find out whether cognizable offence is made out or not in the complaint. However, in this case, the Superintendent of Police, Virudhunagar, without looking into the complaint has mechanically forwarded the same for enquiry. The



Crl.O.P.(MD) No.10157 of 2024

respondent police is conducting the enquiry for more than six months without any authority and without any power. The Superintendent of Police is not a Postman to simply receive the complaint and forward the same to some other police officer.

11.In view of the above, this Court is of the opinion that it is a clear case of harassment. The police Department has been established to protect the citizens by taking appropriate action as against the offenders. The power, which has been conferred under criminal procedure Code and the uniform provided to the police officers is not to harass the citizens in the name of enquiry. Though the Police Standing Orders prohibits the police officers from interfering in the civil disputes and circular in C.No. 18/ADGP/L&O/camp/2024, dated 09.01.2024, has also been issued by the Additional Director General of Police, Tamil Nadu, the scenario has not been changed. Therefore, this Court feels that it is a fit case, which has to be disposed with a cost of Rs.25,000/- as compensation. The State has to pay the compensation to the petitioner for the harassment met by the petitioner at the hands of the respondent police. The Government shall also recover the said amount from the concerned officer, who is responsible for



Crl.O.P.(MD) No.10157 of 2024

keeping the petition enquiry for more than six months.

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12.For the above purpose, this Court *suo-motu* impleads the Secretary to Government, Home Department, Government of Tamil Nadu, Fort St. George, Chennai – 600 009 and the Director General of Police, Kamarajar Salai, Mylapore, Chennai – 600 004, as third and fourth respondents to this petition.

13.The learned Government Advocate (Crl.Side) is directed to take notice for the newly impleaded respondents.

14.With the above directions, this criminal original petition is disposed of.

18.07.2024

NCC : Yes/No
Internet: Yes/No
Index: Yes/No
LR



Crl.O.P.(MD) No.10157 of 2024

To

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2. The Secretary to Government,
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Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

3. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 600 004.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.10157 of 2024

B.PUGALENDHI, J.

LR

CRL.O.P (MD) No.10157 of 2024

18.07.2024