



CrI.O.P.(MD)No.10404 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.07.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.10404 of 2024

1.Chandra

2.Anthoniraj

3.Saranya

... Petitioners

Vs.

1.The Superintendent of Police,
Theni District, Theni.

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

3.Muthuselvi

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the second respondent not to harass the petitioners under the guise of enquiry.

For Petitioners : Mr.N.Jeyaram Sidharth

For R1 & R2 : Mr.T.Senthil Kumar,
Additional Public Prosecutor

For R3 : Mr.K.A.Nandagopan



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ORDER

The petitioners, with an allegation that the second respondent police is harassing them under the guise of an enquiry, have approached this Court.

2.The learned Additional Public Prosecutor appearing for the official respondents submits that the third respondent has lodged a complaint before the first respondent on 29.06.2024 and the same was forwarded to the second respondent for conducting enquiry. Thereafter, the second respondent has issued summons on 29.06.2024 and 08.07.2024. However, the petitioners have not appeared for the enquiry and therefore, the enquiry is pending.

3.The learned counsel appearing for the third respondent submits that the petitioners have cheated a sum of Rs.30,00,000/-, for which, the third respondent has lodged a complaint before the official respondents. The official respondents, instead of registering a case, called the accused persons for enquiry and the same is yet to be completed.

<https://www.mhc.tn.gov.in/judis>4.The learned counsel appearing for the petitioners submits that a



proceedings under Section 138 of the Negotiable Instruments Act is also pending between the parties.

5.This Court considered the rival submissions made on either side and perused the materials available in the record.

6.The nature of the complaint is that the petitioners have received a sum of Rs.30,00,000/- from the third respondent and failed to repay the amount. They have also issued a cheque, which was also bounced and hence, a proceedings under Section 138 of the Negotiable Instruments Act is also pending in STC.No.196 of 2023 before the learned Judicial Magistrate, Periyakulam. The complaint appears to be civil in nature. The official respondents are not supposed to interfere in the civil disputes. The third respondent has to workout his remedy in the proceedings under Section 138 of the Negotiable Instruments Act or by way of filing a suit for recovery of money.

7.The Police get the power of enquiry / investigation only on registration of FIR. In Lalitha Kumari Vs Government of Uttar Pradesh and others reported in (2013) 14 SCR 801, the Hon'ble Supreme Court



permitted the Station House Offices to conduct preliminary enquiry on certain nature of complaints like matrimonial dispute, commercial disputes, medical negligence etc... However complaints of civil in nature are entertained and these petition enquiries are also prolonged for several months. The Police Standing Order PSO.No.562 prohibits investigation in the cases of civil in nature. Circulars are also issued by the Additional Director General of Police in Circular NO.18/ ADGP/L&O/Camp/2024 dated 09.01.2024 that the police are strictly refrained from enquiring or entertaining in civil matters like money dispute, land dispute, property dispute, pathway dispute, intellectual property dispute.,etc.,

8.These circulars also caution police officer that any petition enquiry without endorsement of Superintendent of Police / Commissioner of Police on civil matters would be considered illegal and will attract disciplinary action.

9.Therefore, it is the responsibility of the superior officers like Deputy Superintendent of Police, Additional Superintendent of Police, Superintendent of Police and Commissioner of Police to ensure that these instructions of the Additional Director General of Police in



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Circular No.18/ ADGP/L&O/Camp/2024 dated 09.01.2024 are strictly complied with.

10.In the result, this criminal original petition is allowed and the official respondents are directed not to harass the petitioners.

12.07.2024

NCC : Yes/No
Index : Yes/No
Internet:Yes
gns

To

- 1.The Superintendent of Police,
Theni District, Theni.
- 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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