



WEB COPY



CrI.O.P.No.3181 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.3181 of 2025

Fizal Ali Khan

... Petitioner

Vs

1. The Principal Commissioner of Customs
Petrapole Custom Preventive Unit,
North 24 Parganas House,
Bangaon, Kolkata – 743405.

2. The Principal Commissioner of Customs,
Air Intelligence Unit, Air Cargo Complex,
Anna International Airport,
Meenambakaam, Chennai.

3. Chief Immigration Officer,
Department of Immigration,
Anna International Airport,
Meenambakkam, Chennai.

... Respondents

Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the first, second and third respondents authorities not to harass the petitioner in the guise of investigation in reference No.C.No.VIII(10):/IMP/CL/BSF/PPU/23-24-473, dated 14.11.2023, on the file of the first respondent.



Crl.O.P.No.3181 of 2025

WEB COPY

For Petitioner : Mr.G.Dakshinamurthy

For Respondents : Mr.R.Vinothraja,
Government Advocate (Crl.Side)

O R D E R

This petition has been filed seeking direction to the respondents authorities not to harass the petitioner in the guise of investigation in reference No.C.No.VIII(10):/IMP/CL/BSF/PPU/23-24-473, dated 14.11.2023 on the file of the first respondent.

2. The learned counsel appearing for the petitioner submits that the respondents harassed the petitioner under the guise of enquiry.

3. The learned Government Advocate (Crl.Side) appearing for the respondents submits that the petitioner, petition enquiry is pending current paper on the file of the respondents.

4. Heard the learned counsel appearing on either side and perused the materials placed on record.



CrI.O.P.No.3181 of 2025

WEB COPY

5. It is the grievance of the petitioner that the respondents have been harassing him under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

6. 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/enquiry into these offences are legitimately exercised within the frame work of Chapter XIII of the Bharatiya Nagarik Suraksha Sanhita, 2023. Though the Sanhita empowers the Magistrate to be a guardian in all the stages of the 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 officials from harassing the persons named in a complaint.



CrI.O.P.No.3181 of 2025

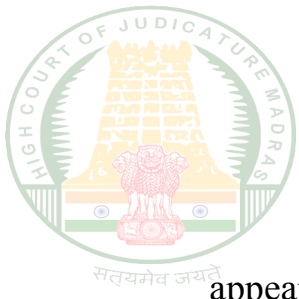
WEB COPY

7. This Court, exercising its power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, normally would not interfere with the investigation conducted by the respondents. Nevertheless, it would also not turn a blind eye to instances of harassment by the respondents under the guise of investigation is brought to its notice.

8. In the present case in hand, the petitioner has complained of harassment by the respondents based on a complaint and seeks 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 respondents.

9. 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 respondents shall summon such person through a written summon under Section 179 of the Bharatiya Nagarik Suraksha Sanhita, specifying a particular date and time for



Crl.O.P.No.3181 of 2025

appearing before them for such an enquiry/investigation.

WEB COPY

b) The minutes of the enquiry shall be recorded in the general diary/office diary/daily diary of the respondents

c) The respondents 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.

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

06.02.2025

Index: Yes/No
Neutral Citation: Yes/No
kv



CrI.O.P.No.3181 of 2025

WEB COPY To

1. The Principal Commissioner of Customs
Petrapole Custom Preventive Unit,
North 24 Parganas House,
Bangaon, Kolkata – 743405.
2. The Principal Commissioner of Customs,
Air Intelligence Unit, Air Cargo Complex,
Anna International Airport,
Meenambakaam, Chennai.
3. The Chief Immigration Officer,
Department of Immigration,
Anna International Airport,
Meenambakkam, Chennai.



WEB COPY



Crl.O.P.No.3181 of 2025

G.K.ILANTHIRAIYAN, J.

kv

Crl.O.P.No.3181 of 2025

06.02.2025