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Crl.O.P.No.6378 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6378 of 2025

M.Shanker

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
District Crime Branch,
Udhagamandalam, The Nilgiris.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to direct the Respondent not to harass the petitioner under the guise of enquiry in pertain to complaint in C.No.776/Camp/SP(N)/Grl/2024, pending on the file of the Respondent Police.

For Petitioner : Mr.S.V.D.Rajendra Prasad

For Respondent : Mr.K.M.D.Muhilan,
Government Advocate (Crl. Side)



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Crl.O.P.No.6378 of 2025

ORDER

This petition has been filed seeking direction to the respondent police not to harass the petitioner under the guise of enquiry in pertain to complaint in C.No.776/Camp/SP(N)/Grl/2024 pending on the file of the Respondent Police.

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

3. The learned Government Advocate (Crl. Side) appearing for the respondent police submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending in C.No.776/Camp/SP(N)/Grl/2024 on the file of the respondent police

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

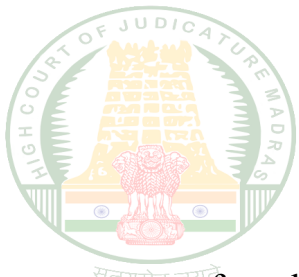


Crl.O.P.No.6378 of 2025

WEB COPY

5. It is the grievance of the petitioner that the respondent police has been harassing them 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 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



Crl.O.P.No.6378 of 2025

WEB COPY

from harassing the persons named in a complaint.

7. This Court, exercising its power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 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.

8. In the present case in hand, 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.

9. In order to circumvent such situations, the following guidelines are issued:

a) While summoning any person named in the complaint or any



Crl.O.P.No.6378 of 2025

WEB COPY

witness to the incident complained of, the police officer shall summon such person through a written summon under Section 179 of the Bharatiya Nagarik Suraksha Sanhita, 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.

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

06.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order



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Crl.O.P.No.6378 of 2025



WEB COPY



Crl.O.P.No.6378 of 2025

G.K.ILANTHIRAIYAN, J.

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To

1. The Inspector of Police,
District Crime Branch,
Udhagamandalam, The Nilgiris.
2. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.6378 of 2025

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