



*Crl.O.P.No.9265 of 2025*

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM

**THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN**

**CRL.O.P.No.9265 of 2025**

V.J. Basheer Ahamed

... Petitioner

Versus

1.The Superintendent of Police, Sathuvachari, Vellore.

2.The Inspector of Police,  
District Crime Branch (DCB),  
Vellore, Vellore District.

... Respondents

**PRAYER:** Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to grant Not to Arrest the petitioner while the petitioner appears before the 2<sup>nd</sup> respondent.

For Petitioner : Mr. P. Srinivasan  
For Respondents : Mr. A. Gopinath,  
Government Advocate (Criminal Side)

### **ORDER**

This Criminal Original Petition has been filed seeking a direction to the second respondent to grant, “Not to Arrest” the petitioner while the petitioner appears before the 2<sup>nd</sup> respondent.

2. The learned counsel for the petitioner submits that the



*Crl.O.P.No.9265 of 2025*

WEB COPY

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 de-facto complainant against the petitioner, petition enquiry is pending in C.S.R.No.22 of 2025 on the file of the respondent police

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

5. On the complaint lodged by the de-facto complainant, the 2<sup>nd</sup> respondent issued a Police summon in Ref. No. C.No.58/SP/DCB-VLR/2025, dated 14.03.2025 to appear before them on 17.03.2025, and it is the main grievance of the petitioner that due to the undergoing treatment for Parkinson disease and Cardiac problem and also undergoing Ramalan fasting and hence, sought time to appear after the Ramzan festival. Hence, the petitioner filed the present petition has invoked the inherent powers of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



*Crl.O.P.No.9265 of 2025*

WEB COPY

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 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.



*Crl.O.P.No.9265 of 2025*

WEB COPY

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 petitioners may not be the same to the police officer.

9. However, the prayer sought for in this petition “Not to Arrest” cannot be granted, and considering the facts and circumstances of the case, 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 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.



Crl.O.P.No.9265 of 2025

WEB COPY

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.

**28.03.2025**

Index : Yes/No  
Speaking order /Non-Speaking order  
Neutral Case Citation: Yes/No

klt



WEB COPY



*Crl.O.P.No.9265 of 2025*

**G.K.ILANTHIRAIYAN, J.**

klt

To

- 1.The Superintendent of Police, Sathuvachari, Vellore.
- 2.The Inspector of Police,  
District Crime Branch (DCB), Vellore, Vellore District.
- 3.The Public Prosecutor, High Court, Madras.

CRL.O.P.No.9265 of 2025

28.03.2025