



Crl.O.P.No.9316 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.03.2025**

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9316 of 2025

Harikrishnan

... Petitioner

Versus

1.The State Rep. by
The Commissioner of Police,
Thambaram Commissionerate,
Thambaram.

2. The Inspector of Police,
Kundrathur Police Station,
Chennai – 69.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to consider the petitioner representation dated 21.03.2025 and first respondent to direct the second respondent not to harass the petitioner without due process of law to secure ends of justice.

For Petitioner : Mr. R. Sankarasubbu

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



Crl.O.P.No.9316 of 2025

ORDER

WEB COPY

This Criminal Original Petition has been filed seeking a direction to consider the petitioner representation dated 21.03.2025 and first respondent to direct the second respondent not to harass the petitioner without due process of law to secure ends of justice.

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

3. The learned Government Advocate (Criminal Side) appearing for the respondents police submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending at CSR stage on the file of the respondent police.

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

5. It is the grievance of the petitioner that the respondent police have been harassing them under the guise of an enquiry/investigation and hence,

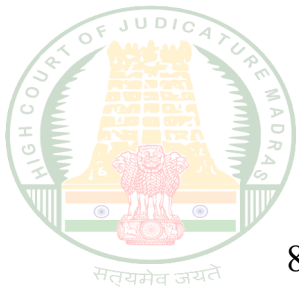


Crl.O.P.No.9316 of 2025

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 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.9316 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 petitioner may not be the same to the police officer.

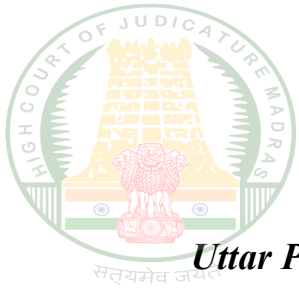
9. In order to circumvent such situations, the following guidelines are issued:

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



Crl.O.P.No.9316 of 2025

Uttar Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to.

WEB COPY

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

28.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/Non-Speaking Order

klt

To

- 1.The Commissioner of Police,
Thambaram Commissionerate,
Thambaram.
2. The Inspector of Police,
Kundrathur Police Station,
Chennai – 69.
3. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.9316 of 2025

G.K.ILANTHIRAIYAN, J.

klt

Crl.O.P.No.9316 of 2025

28.03.2025