



Crl.O.P.No. 12166 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM:

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

Crl.O.P.No.12166 of 2025

1.Arun

2.Hemavathi

.... Petitioners

Vs

1.The Commissioner of Police,
Avadi Commissionarte Office,
Avadi, Chennai 600 056

2.State,
Rep by Inspector of Police,
W30, All Women Police Station,
Poonamallee
(crime No.not known of 2025)

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to give direction to the second respondent police 'not to harass' the petitioners in the crime number not known / 2025 based on the foisted complaint lodged by the defacto complainant on the file of the respondent police without adhering to mandatory provisions.

For Petitioners : Mr.C.Bala Subramaniam

For Respondents

For R1 & 2 : Mr.A.Gopinath,
Government Advocate (Crl.Side)



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ORDER

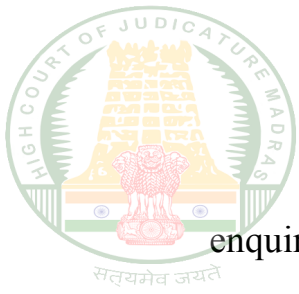
WEB COPY This petition has been filed seeking direction to the second respondent police not to harass the petitioners in crime No.not known of 2025 based on the foisted complaint lodged by the defacto complainant on the file of the respondents police without adhering to mandatory provisions.

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

3. The learned Government Advocate (Crl. Side) appearing for the respondents police submits that on the complaint given by the defacto complainant against the petitioners, petition enquiry in CSR.Nos.126 & 69 of 2025 is pending on the file of the second 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 petitioners that the respondents police have been harassing them under the guise of an



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enquiry/investigation and hence, have 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.



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8. In the present case in hand, the petitioners have 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. 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 Uttar Pradesh and others [2014 (2) SCC (1)]** shall be



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strictly adhered to.

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

23.04.2025

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

To

- 1.The Commissioner of Police,
Avadi Commissionarte Office,
Avadi, Chennai 600 056
- 2.The Inspector of Police,
W30, All Women Police Station,
Poonamallee
- 3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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