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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2025

CORAM:

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

Crl.O.P.No. 11755 of 2025

Maria Selvi .... Petitioner

Vs

The Tamil Nadu state represented by
1.The Deputy Commissioner of Police,
No.132, Office of Deputy Commissioner of Police,
New Washermanpet, Thiruvotriyur High ways,
Vasanth Nagar, Thondaiyar pet, Chennai 600 081
2.The Inspector of Police,
H-8 Thiruvotriyur Police Station,
Thiruvotriyur, Chennai 600 019 .... Respondents

PRAYER:

Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the respondents herein not to harass the petitioner and her family members without due process of law.

For Petitioner : M/s.Cleetus.W

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

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O R D E R

This petition has been filed seeking direction to the respondents herein not to harass the petitioner and her family members without due process of law.

2. The learned counsel appearing for the petitioner submits that the respondents police harassed the petitioner 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 petitioner, petition enquiry is pending in current paper dated 14.03.2025.

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 respondents police have been harassing her 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

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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.

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

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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 strictly adhered to.

10. With the above observations and direction, the Criminal

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Original Petition stands disposed off.

22.04.2025

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

1.The Deputy Commissioner of Police,
No.132, Office of Deputy Commissioner of Police,
New Washermanpet, Thiruvotriyur High ways,
Vasanth Nagar, Thondaiyar pet, Chennai 600 081
2.The Inspector of Police,
H-8 Thiruvotriyur Police Station,
Thiruvotriyur, Chennai 600 019
3.The Public Prosecutor,
High Court, Madras.

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G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.11755 of 2025

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