



Crl.O.P.No.21832 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED:06.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.21832 of 2024

Mr. Kalaimani, aged 33 years,
S/o. Subbramanian,
No. 1/123, Middle Street,
Sadayan Kottakam,
Karappidagai (South),
Nagapattinam-611110.

... Petitioner

Vs.

1. The Inspector of Police,
All Women Police Station,
Nagapattinam District.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Nagapattinam.

3. M.Sabitha, F/29 years,
D/o.Mohandas,
Nadu Theru, Sadaiyan Kottagam,
Keevalur Taluk,
Nagapattinam District. - 611 110.

.. Respondents/
Defacto Complainant

R3 impleaded as per order dated 22.01.2025 in Crl.M.P.No.852/2024 in
Crl.O.P.No.21832/2024

Prayer: Criminal Original Petition is filed under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 to issue a direction to the 1st respondent not to
harass the petitioner under the guise of enquiry and pass orders.



Crl.O.P.No.21832 of 2024

For Petitioner : Mr. N.Senthil

For Respondents : Mr.R.Vinothraja,
Government Advocate (Crl. Side)

ORDER

This petition has been filed to issue a direction to the 1st respondent not to harass the petitioner under the guise of enquiry and pass orders.

2. The learned counsel appearing for the petitioner submits that the respondents 1 & 2 harassed the petitioner under the guise of enquiry.

3. The learned Additional Public Prosecutor appearing for the respondents 1 & 2 submits that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending in C.S.R.No.436 of 2024 on the file of the 1st 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 1 & 2



Crl.O.P.No.21832 of 2024

have 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 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.21832 of 2024

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



Crl.O.P.No.21832 of 2024

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.

06.02.2025

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

bsm

1. The Inspector of Police,
All Women Police Station,
Nagapattinam District.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Nagapattinam.
3. The Public Prosecutor, High Court, Madras.



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Crl.O.P.No.21832 of 2024

G.K.ILANTHIRAIYAN, J.
bsm

Crl.O.P.No.21832 of 2024

06.02.2025