



W.P.No.33375 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM:

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

W.P.No.33375 of 2024
and W.M.P.No.36158 of 2024

1. R.Srinivasa Prabhu
2. Radhakrishnan
3. R.Jeeva

...Petitioners

-Vs-

1. The State of Tamil Nadu
Rep. by the Inspector of Police,
W-33, Virugambakkam All
Women Police Station,
Maduravoyal,
Thiruvallur District.

2. The Sub Inspector of Police,
W-33, Virugambakkam All
Women Police Station,
Maduravoyal,
Thiruvallur District.

3. The District Social Welfare Officer
(South Chennai)
Office of District Social Welfare Officer,
62, Rajaji Salai,
District Collectorate Campus,
VIII Floor, Singaravelar Maligai,
Chennai – 600 001.

4. S.Meena



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5. Vijayalakshmi
Sub Inspector of Police,
W-33, Virugambakkam All
Women Police Station,
Maduravoyal,
Thiruvallur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 not to harass the petitioners herein in the name of enquiry either under Dowry Prohibition Act or under Domestic Violence Act, on the complaint preferred by the fourth respondent.

For Petitioners : Mr.R.Saseetharan

For Respondents

For R1 & R2 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For R3 : Mr.P.Balathandayutham
Special Government Pleader

For R4 & R5 : No appearance

ORDER

This writ petition has been filed for direction directing the respondents police not to harass these petitioners in connection with Crime No.Not known of 2025 pending on the file of Respondent Police.



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2. The learned counsel appearing for the petitioners submits that the respondent police harassed the petitioners 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 defacto complainant against the petitioners, petition enquiry is pending in C.S.R.No.7 of 2023 dated 26.03.2023 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 petitioners that the respondents police 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.



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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.**



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

10. With the above directions, the Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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

rts



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- To
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State of Tamil Nadu,
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 2. The Sub Inspector of Police,
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Maduravoyal,
Thiruvallur District.
 5. The Public Prosecutor,
Madras High Court,
Chennai.



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