



CrI.O.P.No.12133 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.05.2023

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

CrI.O.P.No.12133 of 2023

Rajini

...Petitioner

Vs.

1. The Superintendent of Police,
Salem District, Salem.

2. The Inspector of Police,
District Crime Branch,
Salem District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the second respondent Police not to harass the petitioner except due process of law.

For Petitioner : Mr.M.Subash

For Respondent : Mr.V.J. Priyadarsana
Government Advocate



WEB COPY

ORDER

This petition has been filed seeking direction to the second respondent police not to harass the petitioner in connection with Crime No.245 of 2021 pending on the file of Respondent Police.

2. The learned counsel appearing for the petitioner submitted that the respondent police harassed the petitioner under the guise of enquiry.

3. The learned Government Advocate (CrI.Side) appearing for the respondent police submitted that on the complaint given by the defacto complainant against the petitioner, petition enquiry is pending in Cr.No.245 of 2021 on the file of the respondent police. He further submitted that notice under Section 41 A of Cr.P.C. is issued.

4. Heard the learned Counsel for the petitioner and learned Government Advocate (CrI.Side) for the respondent police.

5. It is the grievance of the petitioner that the respondent police have been harassing her under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.



WEB COPY

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/enquire into these offences are legitimately exercised within the frame work of Chapter XII of the Code of Criminal Procedure. Though the Code of Criminal Procedure 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 482 of the Criminal Procedure Code 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.



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 learned Government Advocate submitted that the Respondent police had issued notice under Section 41-A as complaint against the Petitioner had been received by the Respondent. When a complaint had been received by the Respondent police and notice under Section 41-A had been issued by the Respondent police the Petitioner herein is a law abiding citizen of this country and is duty bound to respect the notice issued by the Respondent police and appear before the police officer concerned. 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 160 Cr.P.C., in case of witnesses and Section 41-A Cr.P.C., in case of complaints against any



Crl.O.P.No.12133 of 2023

WEB COPY

person (accused) specifying a particular date and time for appearing before him 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 Petitioner shall co-operate with the pending investigation with the Respondent police.

e) The Respondent is directed not to summon the Petitioner at odd hours.

f)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.



Crl.O.P.No.12133 of 2023

WEB COPY

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

25.05.2023

Vv/smn

Internet: Yes

Index: Yes/No

Speaking/Non speaking order



WEB COPY



CrI.O.P.No.12133 of 2023

SATHI KUMAR SUKUMARA KURUP, J

Vv/smn

To

1. The Superintendent of Police,
Salem District, Salem.
2. The Inspector of Police,
District Crime Branch,
Salem District.
2. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.12133 of 2023

25.05.2023