

# Rajini vs The Superintendent Of Police on 25 May, 2023

**Author: Sathi Kumar Sukumara Kurup**

**Bench: Sathi Kumar Sukumara Kurup**

CrI.O.P.No

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 pe  
except due process of law.

For Petitioner : Mr.M.Subash

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

Page 1 of 9

<https://www.mhc.tn.gov.in/judis>

CrI.

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 (Crl.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.

4. Heard the learned Counsel for the petitioner and learned Government Advocate (Crl.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.

6. An enquiry into a non cognizable offence or a cognizable <https://www.mhc.tn.gov.in/judis> 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.

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 <https://www.mhc.tn.gov.in/judis> 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 160 Cr.P.C., 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 guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in Lalita Kumari Vs. Government <https://www.mhc.tn.gov.in/judis> 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. Vv/smn 25.05.2023 Internet:Yes Index:Yes/No Speaking/Non speaking order <https://www.mhc.tn.gov.in/judis> 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.

25.05.2023 <https://www.mhc.tn.gov.in/judis> SATHI KUMAR SUKUMARA KURUP, J., Today, the above Criminal Original Petition is posted under the caption "For Being Mentioned" at the instance of the learned Counsel for the Petitioner.

2.A memo filed by the learned Government Advocate [Crl. Side] regarding error an that was typed in the order in Crl.O.P.No.12133 of 2023 dated 25.05.2023.

3.The Petition was filed by Rajini, seeking the 2nd Respondent not to harass the Petitioner.

4.In the order, it is stated that the Petitioner coordinated with the pending investigation in Crime No.245 of 2021. The error is with regard to Crime No.245 of 2021. As per the Petition, the Petitioner had come before this Court against the 2nd Respondent. Whereas, Crime No.245 of 2021 is with regard to pending case before the 2nd Respondent Police / the Inspector of Police, District Crime Branch, Salem. <https://www.mhc.tn.gov.in/judis>

5.Based on the memo, the Crime No.245 of 2021 mentioned in paragraph no.3 of the order is to be removed and print the current paper vide SPGP.No.681 dated 09.03.2023.

6.Registry is directed to carry out necessary corrections and issue fresh order copy.

06.06.2023 cda <https://www.mhc.tn.gov.in/judis> SATHI KUMAR SUKUMARA KURUP, J., cda  
06.06.2023 <https://www.mhc.tn.gov.in/judis>