



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P. (MD) Nos.19324, 23676 of 2014, 257, 1540,
2299, 2437, 1643, 1648, 1688 and 1719 of 2015 (10 cases)
and

M.P. (MD) .No.1/2015 in Crl.O.P. (MD) .No.23676 of 2014

MURUGANANTHAM	... PETITIONER IN CRL OP (MD) . 19324/ 2014
M. CHANDRASEKAR	... PETITIONER IN CRL OP (MD) . 23676/ 2014
T.JAMBU	... PETITIONER IN CRL OP (MD) . 257/ 2015
G.NAGARAJAN	... PETITIONER IN CRL OP (MD) . 1540/ 2015

1. P.RAJAMANICKAM	
2 G.KALYANASUNDARAM	... PETITIONERS IN CRL OP (MD) . 2299/ 2015

P.PITCHAIRAJAN	... PETITIONER IN CRL OP (MD) . 2437/ 2015
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1. JEYARAMAN	
2 NARAYANAN	
3 A. RAMESH	
4 VELMURUGAN	
5 J. SARAVANAN	
6 M. RAMAR	... PETITIONERS IN CRL OP (MD) . 1643/ 2015

1 B. SURESHKUMAR	
2 VIJAYA	
3 RAMU	... PETITIONERS IN CRL OP (MD) . 1648/ 2015

P.M.PANDIAN	... PETITIONER IN CRL OP (MD) . 1688/ 2015
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1 VEL PANDIAN	
2 V. VISWANATHAN	... PETITIONERS IN CRL OP (MD) . 1719/ 2015

- VS. -

1. THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
MELUR, MADURAI DISTRICT.
3. THE SUB-INSPECTOR OF POLICE,
KEELAVALAVU POLICE STATION, KEELAVALAVU,
MELUR TALUK, MADURAI DISTRICT.



1. THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

2. THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
MADURAI DISTRICT.

... RESPONDENTS IN CRL OP(MD). 23676/ 2014

THE ASSISTANT COMMISSIONER (CRIMES),
COMMISSIONER OFFICE BUILDINGS,
SOUTH CHITHIRAI STREET,
MADURAI.

... RESPONDENT IN CRL OP(MD). 257/ 2015

1. THE SUB-INSPECTOR OF POLICE,
TOWN POLICE STATION, PARAMAKUDI,
RAMANATHAPURAM DISTRICT.

2. THE SUB-INSPECTOR OF POLICE,
EAST POLICE STATION, VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT.

3. THE SUB INSPECTOR OF POLICE,
SUBRAMANIPURAM POLICE STATION, MADURAI,
MADURAI DISTRICT.

... RESPONDENTS IN CRL OP(MD). 1540/ 2015

1. THE SUPERINTENDENT OF POLICE,
THENI DISTRICT.

2. THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL WING,
THENI.

... RESPONDENTS IN CRL OP(MD). 2299/ 2015

THE INSPECTOR OF POLICE, V2, POLICE STATION,
AVANIYAPURAM, MADURAI-12.

... RESPONDENT IN CRL OP(MD). 2437/ 2015

1. THE DISTRICT SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.

2. THE INSPECTOR OF POLICE, TALUK POLICE STATION,
THIRUMANGALAM,
MADURAI DISTRICT.

... RESPONDENTS IN CRL OP(MD). 1643/ 2015

1. THE SUPERINTENDENT OF POLICE,
OFFICE OF THE POLICE SUPERINTENDENT, MADURAI

2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUMANGALAM,
MADURAI DISTRICT.

... RESPONDENTS IN CRL OP(MD). 1648/ 2015

1. THE SUPERINTENDENT OF POLICE,
TUTICORIN DISTRICT, TUTICORIN.

2. THE INSPECTOR OF POLICE,
EAST POLICE STATION, KOVILPATTI,
TUTICORIN DISTRICT,

IN CRIME NO.116 OF 2012

... RESPONDENTS IN CRL OP(MD). 1688/ 2015



1. THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
AMBASAMUDRAM SUB DIVISION, TIRUNELVELI DT.
3. THE INSPECTOR OF POLICE, KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT. ... RESPONDENTS IN CRL OP(MD). 1719/ 2015

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure

Prayer in CRL OP(MD). 19324/ 2014 :

To direct the respondents not to harass the petitioner on the guise of enquiry on the basis of complaint preferred by the proposed accused.

Prayer in CRL OP(MD). 23676/ 2014 :

To pass an order directing the respondents more particularly the 2nd respondent not to involve or interfering in the civil dispute between the petitioner and his rival party namely Rajendran in claiming money based on invalid cheque which is fully in the nature of civil forthwith and also abstaining them from harassing the petitioner in this regard.

Prayer in CRL OP(MD). 257/ 2015 :

To direct the respondent herein not to harass the petitioner in the name of enquiry or to retain him in the station illegally in the matter which is not proper in the eyes of law.

Prayer in CRL OP(MD). 1540/ 2015 :

To direct the respondents herein not to harass the petitioner and his family members under the guise of enquiry.

Prayer in CRL OP(MD). 2299/ 2015 :

To direct the respondents herein not to harass the petitioners in the guise of any enquiry on any frivolous complaint by strangers to the petitioners patta land.

Prayer in CRL OP(MD). 2437/ 2015 :

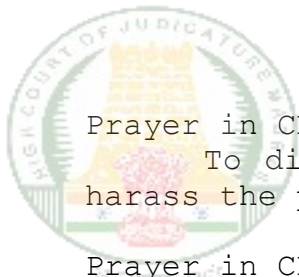
To direct the respondent herein or her subordinate or anybody acting under him not to harass the petitioner and his family without following the due procedure contemplated under law on the basis of his representation dated 29.01.2015 before the respondent.

Prayer in CRL OP(MD). 1643/ 2015 :

To issue direction or orders to the second respondent not to harass the petitioners in the guise of an enquiry in a civil matter without following due process of law.

Prayer in CRL OP(MD). 1648/ 2015 :

To direct the respondent no.2 not to harass the petitioner by way of interfering with the matter purely civil in nature.



Prayer in CRL OP(MD). 1688/ 2015 :

To direct the 1st respondent to instruct the 2nd respondent not to harass the petitioner and his family members unnecessarily.

Prayer in CRL OP(MD). 1719/ 2015 :

To direct the Inspector of Police, Kadayam Police Station, Tirunelveli District, the 3rd respondent herein, not to interfere with the civil subject matter in respect of the property situated in Door Nos. 6/48, 235, 236, 238, 248 and 243, 5th ward, Sivan Koil Street, Kadayam, Tirunelveli District.

For Petitioner/Petitioners

- : Mr.A.Rahul in Crl.O.P.No.19324/2014
- : Mr.B.Jeyakumar in Crl.O.P.No.23676/2014
- : Mr.A.Shanmugaraja in Crl.O.P.No.257/2015
- : Mr.G.Rajasekaran in Crl.O.P.No.1540/2015
- : Mr.K.Appadurai in Crl.O.P.No.2299/2015
- : Mr.N.Anandakumar in Crl.O.P.No.2437/2015
- : Mr.R.Murugappan in Crl.O.P.No.1643/2015
- : Mr.D.Senthil in Crl.O.P.No.1648/2015
- : Mr.M.Veilkaniraju in Crl.O.P.No.1688/2015
- : Mr.R.Anand in Crl.O.P.No.1719/2015

For Respondents in all Crl.O.Ps.

- : Mr.K.V.Rajarajan
- Government Advocate (Crl.side)

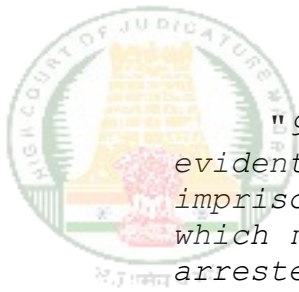
C O M M O N O R D E R

All the petitioners seek directions to the respective respondents not to harass the petitioners and their family members under the guise of enquiry.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side).

3. The petitioners in all these petitions alleged harassment at the hands of the respective police/respondent. Given the guidelines of the Apex Court in *Lalita Kumari vs. Government of U.P. and others* reported in 2013 (4) Crimes 243 (SC) and in *Arnesh Kumar vs. State of Bihar and Another* reported in (2014) 3 MLJ (Crl) (SC), these petitions may be disposed of on the following lines:

In the normal course, the respondent police shall not require the presence of the petitioners before them. In an exceptional case, the respondent police may upon receipt of complaints, require the persons/accused to appear before them for the purpose of enquiry. Such enquiry shall not extend beyond the period of one week. In the event of respondent police registering cases for offences punishable with imprisonment up to 7 years, both respondent police as well as the concerned jurisdictional Magistrate before whom accused persons are produced for the purpose of remand strictly shall follow the dictate of Supreme Court in *Arnesh Kumar vs. State of Bihar and Another* reported in (2014) 3 MLJ (Crl) (SC), paragraph Nos.9, 14 and 15 whereof state as follows:



"9. From a plain reading of the aforesaid provision, it is evident that a person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on its satisfaction that such person had committed the offence punishable as aforesaid. Police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the Court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts. Law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. Law further requires the police officers to record the reasons in writing for not making the arrest. In pith and core, the police office before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 of Cr.P.C.

14. Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

•(1)

All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.P.C;

•(2)

All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b) (ii);

•(3)

The police officer shall forward the check list duly



filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

•(4)

The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

•(5)

The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

•(6)

Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

•(7)

Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

•(8)

Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

15. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

4. These Criminal Original Petitions are ordered accordingly. Consequently, the connected M.P.No.1 of 2015 in CrI.O.P.(MD).No.23676 of 2014 is closed.

Sd/-

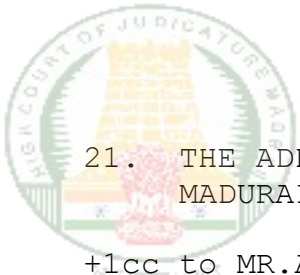
Assistant Registrar (CrI.side)

/True copy/



To

1. THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT, MADURAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE, MELUR, MADURAI DISTRICT.
3. THE SUB-INSPECTOR OF POLICE, KEELAVALAVU POLICE STATION,
KEELAVALAVU, MELUR TALUK, MADURAI DISTRICT.
4. THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI.
5. THE INSPECTOR OF POLICE, CENTRAL CRIME BRANCH, MADURAI DISTRICT.
6. THE ASSISTANT COMMISSIONER (CRIMES), COMMISSIONER OFFICE BUILDINGS,
SOUTH CHITHIRAI STREET, MADURAI.
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TOWN POLICE STATION, PARAMAKUDI, RAMANATHAPURAM DISTRICT.
8. THE SUB-INSPECTOR OF POLICE, EAST POLICE STATION, VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT.
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MADURAI, MADURAI DISTRICT.
10. THE SUPERINTENDENT OF POLICE, THENI DISTRICT.
11. THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL WING, THENI.
12. THE INSPECTOR OF POLICE, V2, POLICE STATION,
AVANIYAPURAM, MADURAI-12.
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MADURAI DISTRICT, MADURAI.
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THIRUMANGALAM, MADURAI DISTRICT.
15. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUMANGALAM, MADURAI DISTRICT.
16. THE SUPERINTENDENT OF POLICE, TUTICORIN DISTRICT, TUTICORIN.
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TUTICORIN DISTRICT,
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19. THE DEPUTY SUPERINTENDENT OF POLICE,
AMBASAMUDRAM SUB DIVISION, TIRUNELVELI DT.
20. THE INSPECTOR OF POLICE, KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT.



21. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to MR.A.RAHUL, ADVOCATE IN SR : 8197
+1cc to MR.B.JEYAKUMAR, ADVOCATE IN SR : 8641
+1cc to MR.K.APPADURAI, ADVOCATE IN SR : 8524
+1cc to MR.N.ANANDAKUMAR, ADVOCATE IN SR : 8243
+1cc to MR.R.MURUGAPPAN, ADVOCATE IN SR : 8287
+1cc to MR.D.SENTHIL, ADVOCATE IN SR : 8344
+1cc to MR.M.VEILKANIRAJU, ADVOCATE IN SR : 8688
+1cc to MR.K.NAGARAJAN, ADVOCATE IN SR : 5448
+2ccS to MR.R.ANAND, ADVOCATE IN SR : 8844 & 8128

Akv

SR : 10.03.2015 : 8p/32c

Cr1.O.P.(MD)Nos.19324, 23676 of 2014,
257, 1540, 2299, 2437,1643, 1648, 1688
and 1719 of 2015
23.02.2015