



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2015

CORAM

THE HON'BLE MR.JUSTICE C.T.SELVAM

CRL.O.P.(MD)No.23292 of 2014

and

M.P(MD)No.1 of 2014

Mariya Bright Selvaraj

... Petitioner

Vs.

1. State of Tamil Nadu,
through Inspector of Police,
District Crime Branch,
Anti-land Grabbing Special Cell,
Nagercoil,
Kanyakumari District.

2. I.Alocious Innocent

... Respondents

Prayer: Criminal Original Petition is filed under section 482 of the Code of Criminal Procedure, to call for the records in Crime No.3 of 2014 pending investigation on the file of the first respondent police and quash the same.

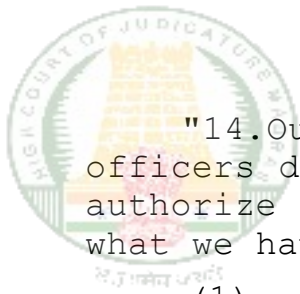
For Petitioner : Mr.R.Manickam

For R1 : Mr.Mayilvagana Rajendran
Additional Public Prosecutor

O R D E R

The learned counsel for the petitioner seeks permission of this Court to withdraw this petition and he has also made an endorsement to that effect.

2. In view of the same, this Criminal Original Petition is dismissed as withdrawn. However, the respondent police is to take note of the position that arrest of accused is not to be resorted to as a matter of course. Again in the event of accused person being produced before them, the jurisdictional Magistrate is required not to effect remand in a mechanical manner. The clear dictum of the Honourable Apex Court in Arnesh Kumar vs. State of Bihar and Another reported in (2014) 3 MLJ (Cr1) (SC) 353, is to be followed both by the respondent police as also the concerned Magistrate. For ready reference, paragraphs 14 and 15 of the judgment referred to is reproduced hereunder:



"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.PC;

•(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.

Consequently, the connected Miscellaneous Petition is closed.

/True Copy/

Sd/-

Assistant Registrar(Per.Admn)

Sub-Assitant Registrar

To

1. The Inspector of Police,
District Crime Branch,
Anti-land Grabbing Special Cell,
Nagercoil,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

akv

RL/3 c- 19/2/2015

CRL.O.P. (MD) No.23292 of 2014

27.01.2015