



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.02.2015
CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

WEB COPY

CrI.O.P.(MD)Nos. 2534,2536,2552, 2572, 2579, 2584, 2587,2645,2698 and
2714 of 2015 (10 cases)

S.KALAIYARASI ... Petitioner in CRL OP(MD). 2534/ 2015

V.K.SURESH ... Petitioner in CRL OP(MD). 2536/ 2015

1 V.CHOKKALINGAM

2 S.PUSHPAM ... Petitioners in CRL OP(MD). 2552/ 2015

JUSTINE ... Petitioner in CRL OP(MD). 2572/ 2015

M.A.SURLINATHAN ... Petitioner in CRL OP(MD). 2579/ 2015

SURESH ... Petitioner in CRL OP(MD). 2584/ 2015

1 SIVAKUMAR

2 SEKAR ... Petitioners in CRL OP(MD). 2587/ 2015

P.LAKSHMANAN ... Petitioner in CRL OP(MD). 2645/ 2015

K.RAJANGAM ... Petitioner in CRL OP(MD). 2698/ 2015

PALANIANDAVAR ... Petitioner in CRL OP(MD). 2714/ 2015

- Vs. -

THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
TRICHY DISTRICT.

... Respondent in CRL OP(MD). 2534/ 2015

1 THE SUPERINTENDENT OF POLICE, RAMANATHAPURAM, RAMANATHAPURAM DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

3 THE ASSISTANT DEPUTY SUPERINTENDENT OF POLICE, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

4 THE INSPECTOR OF POLICE, KENIKARAI POLICE STATION, RAMANATHAPURAM.
... Respondents in CRL OP(MD). 2536/ 2015

1 THE SUPERINTENDENT OF POLICE, RAMANATHAPURAM DISTRICT, RAMANATHAPURAM

2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, PARAMAKUDI,
RAMANATHAPURAM DISTRICT

... Respondents in CRL OP(MD). 2552/ 2015

1 THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI

2 THE INSPECTOR OF POLICE ALL WOMEN POLICE STATION, MADURAI SOUTH,

... Respondents in CRL OP(MD). 2572/ 2015



1 THE SUPERINTENDENT OF POLICE, THANJAVUR DIST, THANJAVUR
2 THE INSPECTOR OF POLICE, WEST POLICE STATION, KUMBAKONAM TOWN,
THANJAVUR DIST

... Respondents in CRL OP(MD). 2579/ 2015

THE INSPECTOR OF POLICE, ERUVADI POLICE STATION, TIRUNELVELI DIST

... Respondent in CRL OP(MD). 2584/ 2015

1 THE SUPERINTENDENT OF POLICE, DINDIGUL DIST, DINDIGUL
2 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, DINDIGUL DIST
3 THE SUB INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, DINDIGUL DIST

... Respondents in CRL OP(MD). 2587/ 2015

1 THE INSPECTOR GENERAL OF POLICE, SOUTH ZONE, MADURAI.
2 THE SUPERINTENDENT OF POLICE, THENI DISTRICT, THENI.
3 THE DEPUTY SUPERINTENDENT OF POLICE, DISTRICT CRIME BRANCH,
THENI DISTRICT, THENI.

... Respondents in CRL OP(MD). 2645/ 2015

1 THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI.
2 THE STATE REP. BY ITS THE INSPECTOR OF POLICE,
KODALPUTHUR POLICE STATION, MADURAI.

... Respondents in CRL OP(MD). 2698/ 2015

1 THE DISTRICT SUPERINTENDENT OF POLICE, OFFICE OF THE DISTRICT
SUPERINTENDENT OF POLICE, DINDIGUL & DISTRICT.
2 THE INSPECTOR OF POLICE, BATALAGUNDU POLICE STATION, BATALAGUNDU,
DINDIGUL DISTRICT.

... Respondents in CRL OP(MD). 2714/ 2015

Prayer in CRL OP(MD). 2534/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the respondent not to harass the petitioner herein in connection with the alleged complaint given by one Mrs.Selvarani.

Prayer in CRL OP(MD). 2536/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to pass an order of direction to the respondent police not to harass and to interfere with the petitioner tenant right and property described in O.S.No.9/2015 pending on the file of the learned District Munsif Court, Ramanathapuram.

Prayer in CRL OP(MD). 2552/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the 2nd respondent police that not to harass the petitioners in the guise of enquiry.

Prayer in CRL OP(MD). 2572/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the respondents not to harass the petitioner and his family members on the guise of enquiry in connection with the complaint.



Prayer in CRL OP(MD). 2579/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the 2nd respondent police not to harass the petitioner and to pass such further or other orders.

Prayer in CRL OP(MD). 2584/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the respondent not to harass the petitioner under the guise of enquiry based on the complaint of Saroja.

Prayer in CRL OP(MD). 2587/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the respondents not to harass the petitioners and his family members under the guise of enquiry.

Prayer in CRL OP(MD). 2645/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the respondents not to harass the petitioner and his family members under the guise of enquiry.

Prayer in CRL OP(MD). 2698/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the respondents particularly the 2nd respondent not to harass the petitioner and his family members under the guise of enquiry and direct them to not to interfere into the civil dispute.

Prayer in CRL OP(MD). 2714/ 2015 :

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to issue a direction, to direct the 1st respondent to direct the 2nd respondent not to harass the petitioner and his Coolie workers doing the agriculture operation at his patta land.

Counsel For Petitioner/Petitioners

- : Mr.T.Senthil Kumar in CrI.O.P.No.2534/2015
- : Mr.J.M.Hassanul Bazari in CrI.O.P.No.2536/2015
- : Mr.M.S.Jeyakarthish in CrI.O.P.No.2552/2015
- : Mr.V.Shankaranarayanan in CrI.O.P.No.2572/2015
- : Mr.D.Selvaraj in CrI.O.P.No.2579/2015
- : Mr.D.Venkatesh in CrI.O.P.No.2584/2015
- : Mr.B.Vinoth Balan in CrI.O.P.No.2587/2015
- : Mr.M.Suresh in CrI.O.P.No.2645/2015
- : Mr.M.Pitchai Muthu in CrI.O.P.No.2698/2015
- : Mr.R.Manoharan in CrI.O.P.No.2714/2015

For Respondents in all CrI.O.Ps.

: Mr.K.V.Rajarajan
Government Advocate (CrI.side)

COMMON ORDER

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 officer 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.P.C 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.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. THE DISTRICT MUNSIF COURT, RAMANATHAPURAM, RAMANATHAPURAM DISTRICT

2. THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, TRICHY DISTRICT.

3. THE SUPERINTENDENT OF POLICE
RAMANATHAPURAM, RAMANATHAPURAM DISTRICT

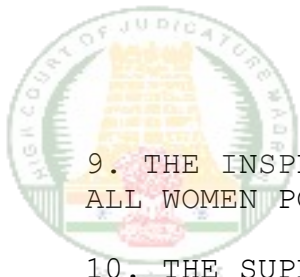
4. THE DEPUTY SUPERINTENDENT OF POLICE,
RAMANATHAPURAM, RAMANATHAPURAM DISTRICT

5. THE ASSISTANT DEPUTY SUPERINTENDENT OF POLICE,
RAMANATHAPURAM, RAMANATHAPURAM DISTRICT

6. THE INSPECTOR OF POLICE
KENIKARAI POLICE STATION, RAMANATHAPURAM

7. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PARAMAKUDI, RAMANATHAPURAM

8. THE COMMISSIONER OF POLICE
MADURAI CITY



9. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, MADURAI SOUTH, MADURAI

10. THE SUPERINTENDENT OF POLICE, THANJAVUR DIST

11. THE INSPECTOR OF POLICE
WEST POLICE STATION, KUMBAKONAM TOWN, THANJAVUR

12. THE INSPECTOR OF POLICE
ERUVADI POLICE STATION, TIRUNELVELI DISTRICT

13. THE SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT

14. THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, DINDIGUL

15. THE SUB INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, DINDIGUL DISTRICT

16. THE INSPECTOR GENERAL OF POLICE, SOUTH ZONE, MADURAI

17. THE SUPERINTENDENT OF POLICE, THENI DISTRICT, THENI

18. THE DEPUTY SUPERINTENDENT OF POLICE,
DISTRICT CRIME BRANCH, THENI DISTRICT, THENI

19. THE INSPECTOR OF POLICE
KOODALPUTHUR POLICE STATION, MADURAI

20. THE DISTRICT SUPERINTENDENT OF POLICE,
OFFICE OF THE DISTRICT SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT

21. THE INSPECTOR OF POLICE
BATALAGUNDU POLICE STATION, BATALAGUNDU, DINDIGUL DISTRICT

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

+1cc to Mr.T.Senthil Kumar, Advocate Sr.No.8169
+1cc to Mr.J.M.Hassanul Bazari ,Advocate Sr.No.8492
+1cc to Mr.M.S.Jeyakarthik, Advocate Sr.No. 8684
+1cc to Mr.D.Selvaraj, Advocate Sr.No. 8294
+1cc to Mr.D.Venkatesh, Advocate Sr.No. 8114
+1cc to Mr.B.Vinoth Balan, Advocate Sr.No. 8101
+1cc to Mr. M.Pitchai Muthu, Advocate Sr.No. 8860
+1cc to Mr.R.Manoharan, Advocate Sr.No. 8520

AKV

AA/10.03.2015/7p- 31c/

CrI.O.P. (MD) Nos. 2534, 2536, 2552, 2572,
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