



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P.(MD)Nos. 3751, 3761,3831,3832,3843,3866,
3891,3892,3909 and 3916 of 2015 (10 cases)

WEB COPY

KARUPPIAH ... PETITIONER IN CRL OP(MD). 3751/ 2015
A.MANICKAVASAGAM ... PETITIONER IN CRL OP(MD). 3761/ 2015

1 S.KARUPPIAH
2 K.LAKSHMI
3 K.GANESH ... PETITIONERS IN CRL OP(MD). 3831/ 2015

1 M.MUTHAMMAL
2 K.ALAGAR
3 A.VELMAYIL ... PETITIONERS IN CRL OP(MD). 3832/ 2015

R.JEGANATHAN ... PETITIONER IN CRL OP(MD). 3843/ 2015
A.JEGANRAJ ... PETITIONER IN CRL OP(MD). 3866/ 2015
SANTHOSH RAJA ... PETITIONER IN CRL OP(MD). 3891/ 2015
KOKILA ... PETITIONER IN CRL OP(MD). 3892/ 2015
C.ELANGO VAN ... PETITIONER IN CRL OP(MD). 3909/ 2015
BOSE ... PETITIONER IN CRL OP(MD). 3916/ 2015

- VS. -

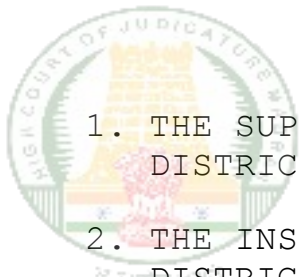
THE INSPECTOR OF POLICE,
ALAGAPPAPURAM POLICE STATION,
SIVAGANGAI DISTRICT. ... RESPONDENT IN CRL OP(MD). 3751/ 2015

1. THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL CELL, NAGERCOIL,
KANYAKUMARI DISTRICT.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
ANTI LAND GRABBING SPECIAL CELL, NAGERCOIL,
KANYAKUMARI DISTRICT. ... RESPONDENTS IN CRL OP(MD). 3761/ 2015

1. THE ASSISTANT COMMISSIONER OF POLICE,
THILAGAR THIDAL POLICE STATION, MADURAI.
2. THE INSPECTOR OF POLICE, KARIMEDU POLICE STATION,
TALLAKULAM, MADURAI. ... RESPONDENTS IN CRL OP(MD). 3831/ 2015

1. THE SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT, DINDIGUL.
2. THE INSPECTOR OF POLICE,
KANNIVADI POLICE STATION, DINDIGUL DISTRICT.

3. THE SUB INSPECTOR OF POLICE,
KANNIVADI POLICE STATION,
DINDIGUL DISTRICT. ... RESPONDENTS IN CRL OP(MD). 3832/ 2015



1. THE SUPERINTENDENT OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR DISTRICT.

2. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS IN CRL OP(MD).3843/ 2015

1. THE SUB INSPECTOR OF POLICE,
ERAI POLICE STATION, THOOTHUKUDI DISTRICT.

2. THE REVENUE DIVISIONAL OFFICER,
COLLECTORATE, KORAMBALLAM,
THOOTHUKUDI DISTRICT. ... RESPONDENTS IN CRL OP(MD). 3866/ 2015

1. THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT.

2. THE INSPECTOR OF POLICE,
THIRUPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT. ... RESPONDENTS IN CRL OP(MD). 3891/ 2015

1. THE COMMISSIONER OF POLICE,
MADURAI DISTRICT.

2. THE ASSISTANT COMMISSIONER OF POLICE (LAW AND ORDER),
THILAGAR THIDAL RANGE, MADURAI DISTRICT.

3. THE INSPECTOR OF POLICE,
TEPPAKULAM POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS IN CRL OP(MD). 3892/ 2015

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

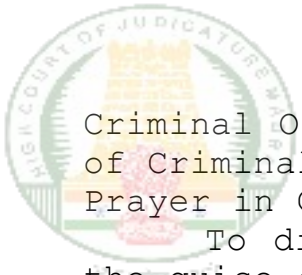
2. THE INSPECTOR OF POLICE,
ODAI PATTI POLICE STATION, UTHAMAPALAYAM TALUK,
THENI DISTRICT.

3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THENI DISTRICT. ... RESPONDENTS IN CRL OP(MD). 3909/ 2015

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

2. THE ASSISTANT COMMISSIONER OF POLICE,
MADURAI SOUTH, SOUTH VELI STREET, MADURAI.

3. THE INSPECTOR OF POLICE,
<https://hcservices.ecourts.gov.in/hcservices/>
ALL WOMEN POLICE STATION, TALLAKULAM,
MADURAI. ... RESPONDENTS IN CRL OP(MD). 3916/ 2015



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

Prayer in CRL OP(MD). 3751/ 2015 :

To direct the respondent not to harass the petitioner under the guise of enquiry based on the complaint of Sivakumar.

Prayer in CRL OP(MD). 3761/ 2015 :

To directing the respondents police not to harass the petitioner by frequently summoning him to appear before the respondents police office under the guise of enquiry since the matter pertaining to the civil dispute .

Prayer in CRL OP(MD). 3831/ 2015 :

To directing the respondent not to harass the petitioners under the guise of enquiry without any case and not to interfere in the matrimonial dispute frequently.

Prayer in CRL OP(MD). 3832/ 2015 :

To directing the respondents not to harass the petitioners except under due process of law.

Prayer in CRL OP(MD). 3843/ 2015 :

To direct the respondent police to not to harass the petitioner and his purchaser and consequently direct the respondent to conduct enquiry in proper manner by following Principle of Natural Justice after receiving and perusing the petitioner side documents by giving reasonable time to the petitioner.

Prayer in CRL OP(MD). 3866/ 2015 :

To direct the respondents not to harass the petitioner without any due process of law.

Prayer in CRL OP(MD). 3891/ 2015 :

To direct the 2nd respondent and his subordinates not to harass or ill treat the petitioner on the guise of enquiry in connection with a money transaction.

Prayer in CRL OP(MD). 3892/ 2015 :

To direct the respondents NO.2 and 3 and their subordinates not to harass or ill treat the petitioner and her family members on the guise of enquiry in connection with a property dispute.

Prayer in CRL OP(MD). 3909/ 2015 :

To directing the 2nd respondent and 3rd respondents not to harass the petitioner in the guise of enquiry.

Prayer in CRL OP(MD). 3916/ 2015 :

To directing the 1st respondent to directing the 3rd respondent herein not to harass the petitioner for not let his own house under the guise of enquiry.



For Petitioner/Petitioners

: Mr.D.venkatesh in Crl.O.P.No.3751/2015
: Mr.A.D.Ganeshamoorthi in Crl.O.P.No.3761/2015
: Mr.M.Karunanidhi, for
M/s.K.J.Associates in Crl.O.P.No.3831/2015
: Mr.D.Sadiq Raja in Crl.O.P.No.3832/2015
: Mr.K.Rajeshwaran in Crl.O.P.No.3843/2015
: Mr.S.senthilsankaranathakumar in Crl.O.P.No.3866/2015
: Mr.R.Gandhi in Crl.O.P.No.3891/2015
: Mr.R.Gandhi in Crl.O.P.No.3892/2015
: Mr.V.Muthukamatchi in Crl.O.P.No.3909/2015
: Mr.S.Muthalraj in Crl.O.P.No.3916/2015

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 clear 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.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.



4. These Criminal Original Petitions are ordered accordingly.

Sd/-

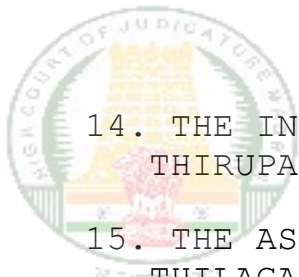
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

TO

1. THE INSPECTOR OF POLICE,
ALAGAPPAPURAM POLICE STATION, SIVAGANGAI DISTRICT.
2. THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL CELL, NAGERCOIL,
KANYAKUMARI DISTRICT.
3. THE DEPUTY SUPERINTENDENT OF POLICE,
ANTI LAND GRABBING SPECIAL CELL, NAGERCOIL,
KANYAKUMARI DISTRICT.
4. THE ASSISTANT COMMISSIONER OF POLICE,
THILAGAR THIDAL POLICE STATION, MADURAI.
5. THE INSPECTOR OF POLICE,
KARIMEDU POLICE STATION, TALLAKULAM, MADURAI.
6. THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.
7. THE INSPECTOR OF POLICE,
KANNIVADI POLICE STATION, DINDIGUL DISTRICT.
8. THE SUB INSPECTOR OF POLICE,
KANNIVADI POLICE STATION, DINDIGUL DISTRICT.
9. THE SUPERINTENDENT OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR DISTRICT.
10. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR DISTRICT.
11. THE SUB INSPECTOR OF POLICE,
ERAL POLICE STATION, THOOTHUKUDI DISTRICT.
12. THE REVE NE DIVISIONAL OFFICER,
COLLECTORATE, KORAMBALLAM, THOOTHUKUDI DISTRICT.
13. THE SUPERINTENDENT OF POLICE, SIVAGANGAI DISTRICT.



14. THE INSPECTOR OF POLICE,
THIRUPACHETHI POLICE STATION, SIVAGANGAI DISTRICT.
15. THE ASSISTANT COMMISSIONER OF POLICE (LAW AND ORDER),
THILAGAR THIDAL RANGE, MADURAI DISTRICT.
16. THE INSPECTOR OF POLICE,
TEPPAKULAM POLICE STATION, MADURAI DISTRICT.
17. THE SUPERINTENDENT OF POLICE, THENI DISTRICT, THENI.
18. THE INSPECTOR OF POLICE,
ODAI PATTI POLICE STATION, UTHAMAPALAYAM TALUK,
THENI DISTRICT.
19. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, THENI DISTRICT.
20. THE COMMISSIONER OF POLICE, MADURAI CITY POLICE, MADURAI.
21. THE ASSISTANT COMMISSIONER OF POLICE,
MADURAI SOUTH, SOUTH VELI STREET, MADURAI.
22. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, TALLAKULAM, MADURAI.
23. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC TO MR.D.VENKATESH, ADVOCATE IN SR : 10851
+1CC TO MR.A.D.GANESHA MOORTHY, ADVOCATE IN SR : 11265
+1CC TO MR.K.J.ASSOCIATES, ADVOCATE IN SR : 11094
+1CC TO MR.D.SADIQ RAJA, ADVOCATE IN SR : 10937
+1CC TO MR.K.RAJESHWARAN, ADVOCATE IN SR : 11042
+1CC TO MR.S.SENTHIL SANKARANATHA KUMAR, ADVOCATE IN SR : 10855
+2CCS TO MR.R.GANDHI, ADVOCATE IN SR : 11059 & 11061
+1CC TO MR.MUTHU KAMATCHI, ADVOCATE IN SR : 11075
+1CC TO MR.NA.PALANIYANDI, ADVOCATE IN SR : 11034

Pjl

SR : 24.03.2015 : 8p/34c

Cr1.O.P.(MD)Nos. 3751, 3761,3831,3832,
3843,3866,3891,3892,3909 and
3916 of 2015 (10 cases)
06.03.2015