



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2015

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.O.P. (MD) Nos. 4315, 4349, 4372, 4378, 4400,
4402, 4408 and 4427 of 2015 (8 cases)

K.NARAYANASAMY ... PETITIONER IN CRL.OP (MD) NO.4315/2015

1.C.BALAMURUGAN
2.C.MAHESHWARI ... PETITIONER IN CRL.OP (MD) NO.4349/2015

1.P.MUTHUMARI ... PETITIONER IN CRL.OP (MD) NO.4372/2015
2.N.PANDURANGAN

C.MURUGANANTHAM ... PETITIONER IN CRL.OP (MD) NO.4378/2015

1.KANIAPPAN
2.LATHA
3.KALIMUTHU ... PETITIONER IN CRL.OP (MD) NO.4400/2015

P.S.CHANDRASEKARAN ... PETITIONER IN CRL.OP (MD) NO.4402/2015

PETCHI @ PETCHIMUTHU ... PETITIONER IN CRL.OP (MD) NO.4408/2015

1.KANIAPPAN
2.LATHA
3.KALIMUTHU ... PETITIONER IN CRL.OP (MD) NO.4427/2015

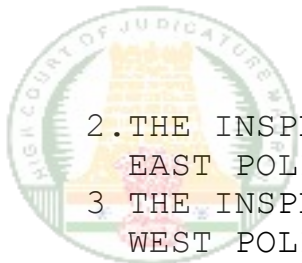
VS.

1. THE COMMISSIONER OF POLICE,
TRICHY DISTRICT,
TRICHY.

2. THE INSPECTOR GENERAL OF POLICE,
I.G.OFFICE, TRICHY.

3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIRENGAM, TRICHY. ... RESPONDENTS IN CRL.OP (MD) NO.4315/2015

1. THE SUPERINTENDENT OF POLICE
TUTICORIN DISTRICT, TUTICORIN.



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

3 THE INSPECTOR OF POLICE
WEST POLICE STATION, KOVILPATTI,
TUTICORIN DISTRICT. ... RESPONDENTS IN CRL.OP (MD) NO.4349/2015

WEB COPY

THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
MADURAI.

(IN CRIME NO. NOT KNOWN OF 2015)

... RESPONDENT IN CRL.OP (MD) NO.4372/2015

1. THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT.

2. THE INSPECTOR OF POLICE,
SOMARASAMPETTAI POLICE STATION,
SOMARASAMPETTAI,
TRICHY. ... RESPONDENTS IN CRL.OP (MD) NO.4378/2015

1. THE SUPERINTENDENT OF POLICE
TIRUNELVELI DISTRICT, TIRUNELVELI.

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

3 PITCHAI ... RESPONDENTS IN CRL.OP (MD) NO.4400/2015

1. THE SUPERINTENDENT OF POLICE
TRICHY DISTRICT, TRICHY.

2 THE DEPUTY SUPERINTENDENT OF POLICE, LALGUDI, TRICHY DISTRICT.

3 INSPECTOR OF POLICE,
LALGUDI POLICE STATION,
TRICHY DISTRICT. ... RESPONDENTS IN CRL.OP (MD) NO.4402/2015

1. THE SUPERINTENDENT OF POLICE
TUTICORIN DISTRICT, TUTICORIN.

2 THE INSPECTOR OF POLICE,
SRIVAİKUNDAM POLICE STATION, SRIVAİKUNDAM,
TUTICORIN DISTRICT, IN CRIME NO.57 OF 2015.

3 THE INSPECTOR OF POLICE,
CBCID, TUTICORIN DISTRICT. ... RESPONDENTS IN
CRL.OP (MD) NO.4408/2015

1 THE SUPERINTENDENT OF POLICE
TIRUNELVELI DISTRICT, TIRUNELVELI.

<https://hcservices.ecourts.gov.in/hcservices/>
2 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, TIRUNELVELI DISTRICT.

3 M.RAMASAMY, ... RESPONDENTS IN CRL.OP (MD) NO.4427/2015



PRAYER IN CRL.OP(MD)NO.4315/2015:-

TO DIRECT THE THIRD RESPONDENT NOT TO HARASS THE PETITIONER, BASED ON THE COMPLAINT DATED 16.1.2015 SUBMITTED BY ONE SHANMUGA PRIYA, W/O.N.VENKATESH.

PRAYER IN CRL.OP(MD)NO.4349/2015:-

TO DIRECT THE RESPONDENTS AND THEIR SUBORDINATES NOT TO HARASS THE PETITIONERS IN THE GUISE OF ENQUIRY AND TO FOLLOW THE DUE PROCESS OF LAW AND PASS SUCH FURTHER OR OTHER ORDERS AS THIS HONBLE COURT MAY DEEM FIT AND PROPER IN THE ABOVE FACTS AND CIRCUMSTANCES.

PRAYER IN CRL.OP(MD)NO.4372/2015:-

TO DIRECT THE RESPONDENT NOT TO HARASS THE PETITIONER AND HIS FAMILY MEMBERS UNDER THE GUISE OF ENQUIRY.

PRAYER IN CRL.OP(MD)NO.4378/2015:-

TO DIRECT THE RESPONDENT NO.2 NOT TH HARASS THE PETITIONER AND HIS FAMILY MEMBERS UNDER THE GUISE OF ENQUIRY AND PASS SUCH FURTHER OR OTHER ORDERS

PRAYER IN CRL.OP(MD)NO.4400/2015:-

TO DIRECT THE 2ND RESPONDENT NOT TO HARASS OR ILL TREAT THE PETITIONERS ON THE GUISE OF ENQUIRY IN CONNECTION WITH A CIVIL DISPUTE AT THE INSTANCE OF THE 3RD RESPONDENT.

PRAYER IN CRL.OP(MD)NO.4402/2015:-

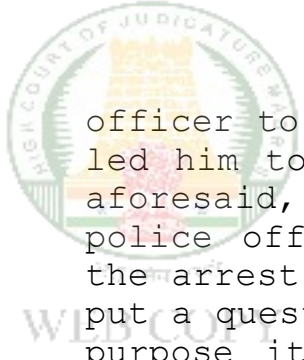
TO DIRECT THE RESPONDENT POLICE TO NOT TO INTERFERE WITH THE DAY TODAY PRACTICE OF THE PETITITONER IN INDIAN SYSTEM OF MEDICINE, I.E. HOMEOPATHY

PRAYER IN CRL.OP(MD)NO.4408/2015:-

TO DIRECT THE 1ST RESPONDENT TO INSTRUCT THE 3RD RESPONDENT NOT TO HARASS THE PETITIONER AND HIS FAMILY MEMBERS BASED ON THE REPRESENTATION DATED 05.03.2015

PRAYER IN CRL.OP(MD)NO.4427/2015:-

TO DIRECT THE 2ND RESPONDENT NOT TO HARASS OR ILL TREAT THE PETITIONERS ON THE GUISE OF ENQUIRY IN CONNECTION WITH A CIVIL DISPUTE AT THE INSTANCE OF THE 3RD RESPONDENT



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 COMMISSIONER OF POLICE,
TRICHY DISTRICT, TRICHY.
2. THE INSPECTOR GENERAL OF POLICE,
I.G.OFFICE, TRICHY.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SRIRENGAM, TRICHY.
4. THE SUPERINTENDENT OF POLICE
TUTICORIN DISTRICT, TUTICORIN.
5. THE INSPECTOR OF POLICE
EAST POLICE STATION, KOVILPATTI, TUTICORIN DISTRICT.
6. THE INSPECTOR OF POLICE
WEST POLICE STATION, KOVILPATTI, TUTICORIN DISTRICT.
7. THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, MADURAI.
8. THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, TRICHY DISTRICT.
9. THE INSPECTOR OF POLICE,
SOMARASAMPETTAI POLICE STATION,
SOMARASAMPETTAI, TRICHY.
10. THE SUPERINTENDENT OF POLICE
TIRUNELVELI DISTRICT, TIRUNELVELI.
11. THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, TIRUNELVELI DISTRICT.
12. THE DEPUTY SUPERINTENDENT OF POLICE, LALGUDI, TRICHY DISTRICT.
13. INSPECTOR OF POLICE,
LALGUDI POLICE STATION, TRICHY DISTRICT.



14.THE INSPECTOR OF POLICE,
SRIVAİKUNDAM POLICE STATION, SRIVAİKUNDAM,
TUTICORIN DISTRICT,

15.THE INSPECTOR OF POLICE,
CBCID, TUTICORIN DISTRICT.

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

+ONE CC TO M/S.G.ANBU SARAIVANAN, Advocate, SR.no.12649

+2ccs to Mr.R.Gandhi, Advocate, SR.No.12420 and 12419

pjl

RL/20C- 27/3/2015

CrI.O.P. (MD) Nos.4315,4349,4372,
4378,4400,4402,4408 and
4427 of 2015 (8 cases)
13.03.2015