



MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2015

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

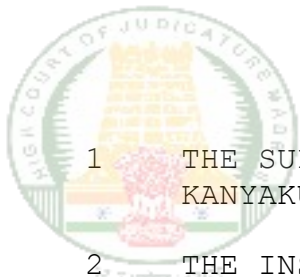
Crl.O.P.(MD)Nos.4919, 4921, 4923, 4924, 4931, 4935,
4945,4946, 4949 and 4950 of 2015

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APPADURAI	...	PETITIONER	in CRL OP (MD)	No.4919	of 2015
CHELLATHURAI	...	PETITIONER	in CRL OP (MD)	No.4921	of 2015
PAPPAMMAL	...	PETITIONER	in CRL OP (MD)	No.4923	of 2015
PANCHAVARANAM	...	PETITIONER	in CRL OP (MD)	No.4924	of 2015
N.S.SHIJA	...	PETITIONER	in CRL OP (MD)	No.4931	of 2015
P.SELVARAJ	...	PETITIONER	in CRL OP (MD)	No.4935	of 2015
TAMILSELVI	...	PETITIONER	in CRL OP (MD)	No.4945	of 2015
D.KAVITHA NILA	...	PETITIONER	in CRL OP (MD)	No.4946	of 2015
M. RAMADASS	...	PETITIONER	in CRL OP (MD)	No.4949	of 2015
V. SENTHILKUMAR	...	PETITIONER	in CRL OP (MD)	No.4950	of 2015

-VS-

- 1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.
- 2 THE INSPECTOR OF POLICE,
AVANIYAPURAM POLICE STATION,
MADURAI. ... RESPONDENTS in CRL OP (MD) No.4919 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT.
- 2 THE INSPECTOR OF POLICE
MARTHANDAM POLICE STATION, MARTHANDAM,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.4921 of 2015
- 1 THE DISTRICT SUPERINTENDENT OF POLICE,
OFFICE OF THE SPERINTENDENT OF POLICE,
THENI DISTRICT.
- 2 THE INSPECTOR OF POLICE,
PALANICHETTIPATTI POLOICE STATION,
PALANICHETTIPATTI,
THENI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.4923 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
DINDIUGL DISTRICT.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
NILAKOTTAI SUB- DIVISION, NILAKOTTAI,
DINDIGUL DISTRICT.
- 3 THE INSPECTOR OF POLICE,
VIRUVEEDU POLICE STATION,
DINDIUGL DISTRICT. ... RESPONDENTS in CRL OP (MD) No.4924 of 2015



1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI, KANYAKUMARI DISTRICT.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KAZHITHURAI,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.4931 of 2015

1 THE COMMISSIONER OF POLICE,
TRICHY CITY, TRICHY.

2 THE INSPECTOR OF POLICE(CRIME),
CANTONMENT POLICE STATION,
TRICHY. ... RESPONDENTS in CRL OP(MD) No.4935 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TALLAKULAM, MADURAI. ... RESPONDENTS in CRL OP(MD) No.4945 of 2015

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

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PUDUKKOTTAI,
TUTICORIN DISTRICT. ... RESPONDENTS in CRL OP(MD) No.4946 of 2015

1 THE DISTRICT POLICE OFFICER,
LAND GRABBING CELL, THANJAVUR,
THANJAVUR DISTRICT.

2 THE DISTRICT SUPERINTENDENT OF POLICE,
THANJAVUR, THANJAVUR DISTRICT.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVAIYARU, THANJAVUR DISTRICT.

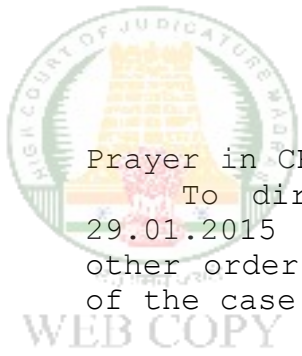
4 THE INSPECTOR OF POLICE
NADU CAUVERY POLICE STATION,
THANJAVUR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.4949 of 2015

THE SUB INSPECTOR OF POLICE,
THENI TOWN POLICE STATION,
THENI DISTRICT. ... RESPONDENT in CRL OP(MD) No.4950 of 2015

Criminal Original Petition filed under section 482 of Criminal Procedure Code

Prayer in CRL OP(MD) No.4919 of 2015:

To direct the 2nd respondent to register the complaint dated 02.03.2015 preferred by the petitioner for the offences punishable under sections 294(b), 447, 452 & 506 (ii) IPC and to take action against the accused persons in accordance with law.



Prayer in CRL OP(MD) No.4921 of 2015:

To direct the second Respondent to register the complaint dated 29.01.2015 submitted to the first respondent and to pass such further or other order or orders as it may deem fit and proper in the circumstances of the case.

Prayer in CRL OP(MD) No.4923 of 2015:

To register the FIR on basis of the complaint of the petitioner dated 12/03/2015.

Prayer in CRL OP(MD) No.4924 of 2015:

To direct the 3rd respondent to register the case on the complaint of the petitioner dated 12/11/2013.

Prayer in CRL OP(MD) No.4931 of 2015:

To direct the 2nd respondent to register a case on the complaint of the petitioner dated 16.08.2013.

Prayer in CRL OP(MD) No.4935 of 2015:

To direct the 2nd respondent to register a FIR on the basis of complaint given by the petitioner dated 04.03.2015.

Prayer in CRL OP(MD) No.4945 of 2015:

To direct the second respondent to register the first information report against the proposed accused based on the Petitioners complaint dated 09.03.2015 lodged by the petitioner.

Prayer in CRL OP(MD) No.4946 of 2015:

To direct the 2nd respondent to register a case based on the complaint preferred by the petitioner dated 05.03.2015.

Prayer in CRL OP(MD) No.4949 of 2015:

To issue direction to the 2nd respondent to direct the 4th respondent to register a case as against person mentioned in the complaint for offences under sections 452, 468, 323 and 506(ii) of IPC, on the basis of the complaint dated 07.03.2014 given by the petitioner and monitoring the investigation in accordance with law.

Prayer in CRL OP(MD) No.4950 of 2015:

To register the case based on the complaint given by the petitioner herein dated 26.02.2015 and investigate the same in accordance with law.

PETITIONER ADVOCATE IN

CRL.OP (MD) NO.4919/15	:	MR.R.GANDHI
CRL.OP (MD) NO.4921/15	:	MR.G.ARAVINTHAN
CRL.OP (MD) NO.4923/15	:	MR.R.MANOCHARAN
CRL.OP (MD) NO.4924/15	:	M/S.J.SENTHIL KUMARIAH FOR M/S.DHANA LAW ASSOCIATES
CRL.OP (MD) NO.4931/15	:	MR.C.MUTHU SARAVANAN
CRL.OP (MD) NO.4935/15	:	MR.A.ARUNPRASAD
CRL.OP (MD) NO.4945/15	:	MR.S.MOORTHY
CRL.OP (MD) NO.4946/15	:	MR.S.BASKAR MATHURAM
CRL.OP (MD) NO.4949/15	:	MR.V.NAGENDRAN
CRL.OP (MD) NO.4950/15	:	MR.A.UTHAYAKUMAR



FOR RESPONDENTS
IN ALL THE PETITIONS

: MR.K.V.RAJARAJAN
GOVT. ADVOCATE (CRL.SIDE)

COMMON ORDER

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For the past two and a half months, this Court has been passing the following orders on petitions seeking registration of complaint:

"By way of an interim order, this Court directs respondent police to peruse the complaint preferred by petitioner herein and register a case if the same informs commission of cognizable offence. In particular instances, respondent police may resort to a petition enquiry which again shall not extend beyond a period of one week. This order is made towards effecting and ensuring compliance with the decision of the Apex Court in *Lalita Kumari vs. Govt. of U.P. & others* [2013 (4) Crimes 243 (SC)]. It is expected that respondent police will follow the dictate of the Apex Court in the aforesaid judgment in letter and spirit and not give room for any further action at the hands of this Court. In the event of respondent police not being in receipt of complaint allegedly preferred before them by petitioner, it would always be open for respondent police to inform such position at the next hearing date.

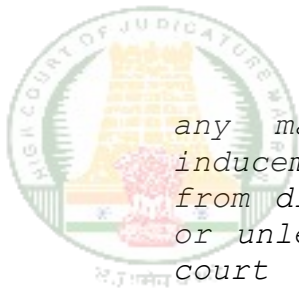
Post after two weeks."

Despite the same, we note that generally, action of the respondents have been more in the breach than in observance.

2. The matter is one of grave concern. Despite the decision of the Apex Court in *Lalita Kumari vs. Govt. of U.P. & Others* (2013 (4) Crimes 243 (SC)) and despite the repeated direction of this Court requiring action of respondent police, the respondent police ever so often, are found to conduct themselves with gay abandon.

3. This Court, therefore, directs the respondents to strictly follow the mandate in *Lalita Kumari vs. Govt. of U.P. & Others* (2013 (4) Crimes 243 (SC)) and register cases without fail, where reading of the complaint informs cognizable offences. Their failure to do so would be actionable in contempt at the hands of the respective petitioners. Respondent Police may also note that if their resorting to conduct of petition enquiry, is seen as a ruse to avoid the registration of a case, the same would be actionable in contempt. We would also add a word in caution that the decision of the Apex Court in *Arnesh Kumar vs. State of Bihar and Another* reported in (2014) 3 MLJ (Crl) (SC) scrupulously is to be followed. Such decision in paragraph Nos.9, 14 and 15, inform thus:

"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.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 arrest. The decision 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;

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(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 petitions are ordered as above. Consequently, connected miscellaneous petitions are closed.

Sd/-

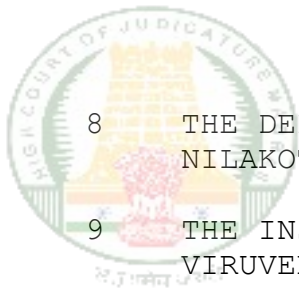
Assistant Registrar (RTI)

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Sub Assistant Registrar

To,

- 1 THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI.
- 2 THE INSPECTOR OF POLICE,
AVANIYAPURAM POLICE STATION, MADURAI.
- 3 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, KANYAKUMARI DISTRICT.
- 4 THE INSPECTOR OF POLICE
MARTHANDAM POLICE STATION, MARTHANDAM, KANYAKUMARI DISTRICT.
- 5 THE DISTRICT SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, THENI DISTRICT.
- 6 THE INSPECTOR OF POLICE,
PALANICHETTIPATTI POLICE STATION,
PALANICHETTIPATTI, THENI DISTRICT.
- 7 THE SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT.



8 THE DEPUTY SUPERINTENDENT OF POLICE,
NILAKOTTAI SUB- DIVISION, NILAKOTTAI, DINDIGUL DISTRICT.

9 THE INSPECTOR OF POLICE,
VIRUVEEDU POLICE STATION, DINDIGUL DISTRICT.

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10 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KAZHITHURAI, KANYAKUMARI DISTRICT.

11 THE COMMISSIONER OF POLICE, TRICHY CITY, TRICHY.

12 THE INSPECTOR OF POLICE (CRIME),
CANTONMENT POLICE STATION, TRICHY.

13 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT.

14 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, TALLAKULAM, MADURAI.

15 THE SUPERINTENDENT OF POLICE,
DISTRICT SUPERINTENDENT OF POLICE, TUTICORIN DIST.

16 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PUDUKKOTTAI, TUTICORIN DISTRICT.

17 THE DISTRICT POLICE OFFICER,
LAND GRABBING CELL, THANJAVUR, THANJAVUR DISTRICT.

18 THE DISTRICT SUPERINTENDENT OF POLICE,
THANJAVUR, THANJAVUR DISTRICT.

19 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVAIYARU, THANJAVUR DISTRICT.

20 THE INSPECTOR OF POLICE
NADU CAUVERY POLICE STATION, THANJAVUR DISTRICT.

21 THE SUB INSPECTOR OF POLICE,
THENI TOWN POLICE STATION, THENI DISTRICT.

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

+1CC TO MR.DHANA LAW ASSOCIATES, IN SR : 14162

Ses

SR : 13.04.2015 : 7p/24c

Cr1.O.P. (MD) Nos. 4919, 4921, 4923, 4924, 4931, 4935,
4945, 4946, 4949 and 4950 of 2015
23.03.2015