



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

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Cr1.O.P. (MD) Nos.4951,4962,4964,4965,4975,  
4981,4985,4987,5008 and 5018 of 2015

|                      |                                             |
|----------------------|---------------------------------------------|
| R.SIVARAMAKRISHAN    | ..PETITIONER in CRL OP (MD) No.4951 of 2015 |
| KARUNAKARAN          | ..PETITIONER in CRL OP (MD) No.4962 of 2015 |
| M.RAMESH @ KALIAPPAN | ..PETITIONER in CRL OP (MD) No.4964 of 2015 |
| CHINNATHAMBI         | ..PETITIONER in CRL OP (MD) No.4965 of 2015 |
| B.GANDHIMATHI        | ..PETITIONER in CRL OP (MD) No.4975 of 2015 |
| MUTHUIRULANDI        | ..PETITIONER in CRL OP (MD) No.4981 of 2015 |
| J.DANIEL             | ..PETITIONER in CRL OP (MD) No.4985 of 2015 |
| R.PANDI              | ..PETITIONER in CRL OP (MD) No.4987 of 2015 |
| RAVI @ JEGANATHAN    | ..PETITIONER in CRL OP (MD) No.5008 of 2015 |
| M.VEERAMUTHU         | ..PETITIONER in CRL OP (MD) No.5018 of 2015 |

-VS-

- 1 THE SUPERINTENDENT OF POLICE  
RAMANATHAPURAM DISTRICT RAMANATHAPURAM.
- 2 THE INSPECTOR OF POLICE  
TOWN POLICE STATION RAMESHWARM  
RAMANATHAPURAM DISTRICT. ..RESPONDENTS in CRL OP (MD) No.4951 of 2015
- 1 THE SUPERINTENDENT OF POLICE  
THANJAVUR DISTRICT THANJAVUR
- 2 THE INSPECTOR OF POLICE  
THIRUCHITRAMBALAM POLICE STATION  
THANJAVUR DISTRICT. ..RESPONDENTS in CRL OP (MD) No.4962 of 2015
- 1 THE SUPERINTENDENT OF POLICE  
DINDIGUL DIST DINDIGUL.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE  
VEDASANTHUR CIRCLE DINDIGUL DIST.
- 3 THE INSPECTOR OF POLICE  
KOOMPUR POLICE STATION  
DINDIGUL DIST. ..RESPONDENTS in CRL OP (MD) No.4964 of 2015
- 1 THE SUPERINTENDENT OF POLICE  
PUDUKKOTTAI DIST PUDUKKOTTAI.
- 2 THE INSPECTOR OF POLICE  
ALANGUDI POLICE STATION  
PUDUKKOTTAI DIST. ..RESPONDENTS in CRL OP (MD) No.4965 of 2015
- 1 THE COMMISSIONER OF POLICE  
TRICHY CITY TRICHY.



2 THE INSPECTOR OF POLICE  
THIRUVERUMBUR POLICE STATION  
TRICHY DIST. ..RESPONDENTS in CRL OP(MD) No.4975 of 2015

1 THE DEPUTY SUPERINTENDENT OF  
POLICE USILAMPATT MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE  
USILAMPATTI TOWN POLICE STATION  
MADURAI DISTRICT. ..RESPONDENTS in CRL OP(MD) No.4981 of 2015

1 THE SUPERINTENDENT OF POLICE  
DINDIGUL DISTRICT DINDIGUL.

2 THE INSPECTOR OF POLICE  
DISTRICT CRIME BRANCH  
DINDIGUL. ..RESPONDENTS in CRL OP(MD) No.4985 of 2015

1 THE SUPERINTENDENT OF POLICE  
MADURAI DISTRICT MADURAI

2 THE INSPECTOR OF POLICE  
USLIAMPATTI POLICE STATION  
MADURAI DISTRICT. ..RESPONDENTS in CRL OP(MD) No.4987 of 2015

1 THE SUPERINTENDENT OF POLICE  
THANJAVUR DISTRICT THANJAVUR

2 THE INSPECTOR OF POLICE  
PATTUKOTTAI TOWN POLICE STATION  
THANJAVUR DISTRICT. ..RESPONDENTS in CRL OP(MD) No.5008 of 2015

1 THE DEPUTY SUPERINTENDENT OF POLICE  
ARANTHANGI, PUDUKOTTAI DISTRICT.

2 THE INSPECTOR OF POLICE  
AVADIYARKOVIL POLICE STATION  
PUDUKOTTAI DISTRICT. ..RESPONDENTS in CRL OP(MD) No.5018 of 2015

Prayer in CRL OP(MD) No.4951 of 2015:

To direct the 2nd respondent to register a case/FIR on the complaint given by the petitioner dated 31.01.2015 and investigate into the case and pass such further or other orders

Prayer in CRL OP(MD) No.4962 of 2015:

To direct the 2nd respondent to register a case on the complaint dated 21.01.2015 lodged by the petitioner and pass such further or other orders.

Prayer in CRL OP(MD) No.4964 of 2015:

To direct the 3rd respondent to register a case upon the complaint of the petitioner dated 02.02.2015.



Prayer in CRL OP(MD) No.4965 of 2015:

To pass an order directing the respondents particularly the 2nd respondent to register the complaint of the petitioner dated 30.01.2015 and investigate the same.

Prayer in CRL OP(MD) No.4975 of 2015:

To direct the 2nd respondent to register a case on the complaint dated 09.01.2015.

Prayer in CRL OP(MD) No.4981 of 2015:

To direct the respondents to herein to register an FIR on the basis of the complaint given by the petitioner dated 31.01.2015.

Prayer in CRL OP(MD) No.4985 of 2015:

To direct the 2nd respondent to register the case on the basis of the complaint dated 2.2.2015.

Prayer in CRL OP(MD) No.4987 of 2015:

To direct the Respondent No.2 to register the case on the Petitioners complaint dated 06.12.2014 and proceed with the same as per law within the time.

Prayer in CRL OP(MD) No.5008 of 2015:

To direct the 2nd respondent to register a case against the accused based on the complaint dated 14.03.2015 lodged by the petitioner and pass such further or other orders.

Prayer in CRL OP(MD) No.5018 of 2015:

To pass an order directing the respondents to register a case and investigate the petitioners complaint dated 04.03.2015 and such further or other orders.

For Petitioner/Petitioners

- : Mr.M.Solaisamy in Crl.O.P.No.4951/2015
- : Mr.D.R.Murugesan in Crl.O.P.No.4962/2015
- : Mr.R.Aravind Raj in Crl.O.P.No.4964/2015
- : Mr.K.Prabhakaran in Crl.O.P.No.4965/2015
- : Mr.A.Chandra Kumar in Crl.O.P.No.4975/2015
- : Mr.K.R.Laxman in Crl.O.P.No.4981/2015
- : Mr.S.Mahendrapathy in Crl.O.P.No.4985/2015
- : Mr.T.Lajapathi Roy in Crl.O.P.No.4987/2015
- : Mr.D.R.Murugesan in Crl.O.P.No.5008/2015
- : Mr.M.Suresh in Crl.O.P.No.5018/2015

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

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 (Cr1) (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 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. Accordingly, these petitions are ordered as above.

Sd/-

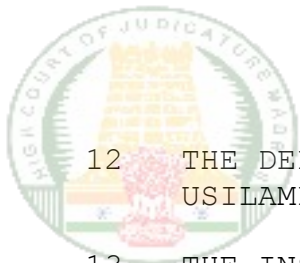
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

TO

- 1 THE SUPERINTENDENT OF POLICE, RAMANATHAPURAM DISTRICT, RAMANATHAPURAM.
- 2 THE INSPECTOR OF POLICE, TOWN POLICE STATION RAMESHWARM RAMANATHAPURAM DISTRICT.
- 3 THE SUPERINTENDENT OF POLICE, THANJAVUR DISTRICT THANJAVUR
- 4 THE INSPECTOR OF POLICE, THIRUCHITRAMBALAM POLICE STATION THANJAVUR DISTRICT.
- 5 THE SUPERINTENDENT OF POLICE, DINDIGUL DIST DINDIGUL.
- 6 THE DEPUTY SUPERINTENDENT OF POLICE, VEDASANTHUR CIRCLE, DINDIGUL DIST.
- 7 THE INSPECTOR OF POLICE, KOOMPUR POLICE STATION DINDIGUL DIST.
- 8 THE SUPERINTENDENT OF POLICE, PUDUKKOTTAI DIST PUDUKKOTTAI.
- 9 THE INSPECTOR OF POLICE, ALANGUDI POLICE STATION PUDUKKOTTAI DIST.
- 10 THE SUPERINTENDENT OF POLICE, TRICHY CITY TRICHY.
- 11 THE INSPECTOR OF POLICE, THIRUVERUMBUR POLICE STATION, TRICHY DIST.



12 THE DEPUTY SUPERINTENDENT OF POLICE,  
USILAMPATT MADURAI DISTRICT.

13 THE INSPECTOR OF POLICE, USILAMPATTI TOWN POLICE STATION  
MADURAI DISTRICT.

14 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH  
DINDIGUL.

15 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT MADURAI

16 THE INSPECTOR OF POLICE, USLIAMPATTI POLICE STATION  
MADURAI DISTRICT.

17 THE INSPECTOR OF POLICE, PATTUKOTTAI TOWN POLICE STATION  
THANJAVUR DISTRICT.

18 THE DEPUTY SUPERINTENDENT OF POLICE, ARANTHANGI, PUDUKOTTAI DISTRICT.

19 THE INSPECTOR OF POLICE, AVADIYARKOVIL POLICE STATION  
PUDUKOTTAI DISTRICT.

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

+1CC to M/s.S.Mahendrapathy, Advocate in SR.14656

Cr1.O.P.(MD)Nos.4951,4962,4964,4965,4975,  
4981,4985,4987,5008 and 5018 of 2015  
23.03.2015

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