



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2015

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THE HONOURABLE MR. JUSTICE C.T.SELVAMCrl.O.P.Nos.5019, 5023, 5030, 5037, 5039, 5055, 5056, 5057 and
5059 of 2015

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P.BALASUBRAMANIAN ... PETITIONER in CRL OP(MD) No.5019 of 2015

S.SAMUEL ... PETITIONER in CRL OP(MD) No.5023 of 2015

V.SHANMUGAM ... PETITIONER in CRL OP(MD) No.5030 of 2015

REJANA FATHIMA ... PETITIONER IN CRL.OP(MD)NO.5037 of 2015

N.V. JEGATHA ... PETITIONER in CRL OP(MD) No.5039 of 2015

A.KAMARUNNISHA BEGUM ...PETITIONER in CRL OP(MD) No.5055 of 2015

K.MUTHU RAJA ...PETITIONER in CRL OP(MD) No.5056 of 2015

MARIMUTHU ... PETITIONER in CRL OP(MD) No.5057 of 2015

S.K.M.MAIMOON BEEVI ...PETITIONER in CRL OP(MD) No.5059 of 2015

-VS-

1 THE COMMISSIONER OF POLICE
MADURAI CITY MADURAI

2 THE INSPECTOR O F POLICE
ANNANAGAR POLICE STATION ANNANAGAR MADURAI
... RESPONDENT(s) in CRL OP(MD) No.5019 of 2015

1 THE SUPERINTENDENT OF POLICE
TIRUNELVELI DISTRICT PALAYAMKOTTAI

2 THE INSPECTOR OF POLICE
MUKKUDAL POLICE STATION
TIRUNELVELI DISTRICT.
... RESPONDENT(s) in CRL OP(MD) No.5023 of 2015

1 THE SUPERINTENDENT OF POLICE
TUTICORIN TUTICORIN DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE
OTTAPIDARAM TUTICORIN DISTRICT.

3 THE INSPECTOR OF POLICE
OTTAPIDARAM POLICE STATION
TUTICORIN DISTRICT.
... RESPONDENT(s) in CRL OP(MD) No.5030 of 2015



1. THE SUPERINTENDENT OF POLICE
THENI DISTRICT, THENI
2. THE DEPUTY SUPERINTENDENT OF POLICE
BODINAYAKANUR, THENI DISTRICT
3. THE INSPECTOR OF POLICE
CHINAMANNUR POLICE STATION
CHINAMANNUR, THENI DISTRICT
4. THE SUB-INSPECTOR OF POLICE
CHINAMANNUR POLICE STATION
CHINAMANNUR, THENI DISTRICT

...RESPONDENTES IN CRL.OP (MD) NO.5037/2015

- 1 THE SUPERINTENDENT OF POLICE
THENI DISTRICT THENI
- 2 THE INSPECTOR OF POLICE
THENKARAI POLICE STATION, PERIYAKULAM,
THENI DISTRICT ...RESPONDENTS in CRL OP (MD) No.5039 of 2015

- 1 THE SUPERINTENDENT OF POLICE
MADURAI DISTRICT MADURAI.
- 2 THE INSPECTOR OF POLICE
TALLAKULAM POLICE STATION MADURAI.
- 3 THE SUB INSPECTOR OF POLICE
APPANTHIRUPPATHI POLICE STATION
MADURAI DISTRICT.
... RESPONDENT(s) in CRL OP (MD) No.5055 of 2015

- 1 THE SUPERINTENDENT OF POLICE
TIRUNELVELI DIST.
- 2 THE INSPECTOR OF POLICE
VASUDEVANALLUR POLICE STATION
TIRUNELVELI DISTRICT
... RESPONDENT(s) in CRL OP (MD) No.5056 of 2015

- 1 THE COMMISSIONER OF POLICE
MADURAI CITY MADURAI
- 2 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH DISTRICT CRIME BRANCH
POLICE STATION MADURAI
... RESPONDENT(s) in CRL OP (MD) No.5057 of 2015

- 1 THE SUPERINTENDENT OF POLICE
DINDIGUL DISTRICT DINDIGUL.
- 2 THE INSPECTOR OF POLICE
NORTH POLICE STATION DINDIGUL.



3 THE SUB INSPECTOR OF POLICE
NORTH POLICE STATION DINDIGUL.
... RESPONDENT(s) in CRL OP(MD) No.5059 of 2015

CRIMINAL ORIGINAL PETITIONS FILED UNDER SECTION 482 OF CR.PC.

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PRAYER IN CRL OP(MD) NO.5019 OF 2015:
TO DIRECT THE 2ND RESPONDENT HEREIN TO REGISTER THE COMPLAINT
GIVEN BY THE PETITIONER DATED 12.01.2015 AND TAKE NECESSARY ACTION
WITHIN THE TIME STIPULATED.

PRAYER IN CRL OP(MD) NO.5023 OF 2015:
TO DIRECT THE 2ND RESPONDENT TO REGISTER CASE ON THE PETITIONERS
COMPLAINT DATED 15.2.2015 INVESTIGATE THE SAME AND FILE A FINAL
REPORT WITHIN A STIPULATED PERIOD.

PRAYER IN CRL OP(MD) NO.5030 OF 2015:
TO DIRECT THE RESPONDENTS TO REGISTER A CASE BASED ON THE
COMPLAINT DATED 06.12.2012, 06.03.2015 AND 09.03.2015 GIVEN BY THE
PETITIONER AND TAKE NECESSARY ACTION WITHIN THE TIME STIPULATED BY
THIS HONOURABLE COURT.

PRAYER IN CRL.OP(MD)NO.5037 OF 2015:- TO REGISTER A CAASE ON THE
BASIS OF THE COMPLAINT LODGED BY THE PETITIONER WITH THE
RESPONDENTS ON 17/02/2015 AND INVESTIGATE THE SAME IN ACCORDANCE
WITH LAW.

PRAYER IN CRL OP(MD) NO.5039 OF 2015:
TO DIRECT THE 1ST RESPONDENT TO INSTRUCT THE 2ND RESPONDENT TO
REGISTER A CASE ON THE COMPLAINT DATED 15.03.2015 OF THE
PETITIONER AND TO PASS OTHER OR FURTHER ORDERS.

PRAYER IN CRL OP(MD) NO.5055 OF 2015:
TO DIRECT THE 2ND RESPONDENT TO REGISTER A CASE ON THE COMPLAINT
OF THE PETITIONER DATED 11.08.2014 AND FURTHER DIRECT HIM TO
INVESTIGATE THE MATTER IN ACCORDANCE WITH LAW.

PRAYER IN CRL OP(MD) NO.5056 OF 2015:
TO DIRECT THE RESPONDENT POLICE TO REGISTER A CASE ON THE
COMPLAINT OF THE PETITIONER DATED 4.03.2015.

PRAYER IN CRL OP(MD) NO.5057 OF 2015:
TO REGISTER THE FIR ON BASIS OF THE COMPLAINT OF THE PETITIONER
DATED 12.03.2015 AND PASS SUCH FURTHER OR ORTHER ORDERS.

PRAYER IN CRL OP(MD) NO.5059 OF 2015:
TO DIRECT THE 2ND RESPONDENT TO REGISTER THE CASE IN PURSUANT
TO THE COMPLAINT GIVEN BY THE PETITIONER DATED 25.02.2015 AGAINST
SAID RAMU AND HIS ROWDY ELEMENTS.



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For Petitioner : Mr.N.Mariappan in Crl.OP(MD)No.5019/2015
: Mr.P.Subbiah in Crl.OP(MD)No.5023/2015
: Mr.R.Boomirajan in Crl.OP(MD)No.5030/2015
: Mr.K.Prabhu in Crl.OP(MD)No.5037/2015
: Mr.M.Veilkaniraja in Crl.OP(MD)No.5039/2015
: Mr.M.Mohamed Shrebudeen in Crl.OP(MD)No.5055/2015
: Mr.T.A.Ebenezer in Crl.OP(MD)No.5056/2015
: Mr.R.Manoharan in Crl.OP(MD)No.5057/2015
: M/s.Devasena in Crl.OP(MD)No.5059/2015

For Respondents : Mr.K.V.Rajarajan
Govt. Advocate (Crl.Side)
(in all Crl.OP's)
COMMON ORDER

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 it is found that respondent police, failing 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



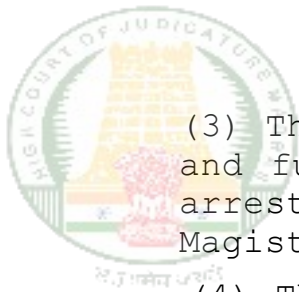
the decision of the Apex Court in Arnesh Kumar vs. State of Bihar and Another reported in (2014) 3 MLJ (Cr1) (SC) scrupulously is to be followed. Such decision in paragraph Nos.9, 14 and 15, inform thus:

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

Sd/-

Assistant Registrar (Per. Admn)

/True Copy/

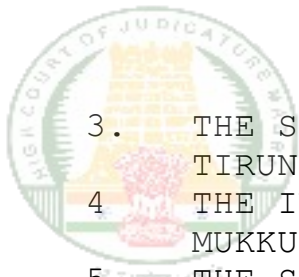
Sub-Assitant Registrar

To,

1 THE COMMISSIONER OF POLICE, MADURAI CITY MADURAI

2 THE INSPECTOR OF POLICE

<https://hcservices.ecourts.gov.in/hcservices/> ANNANAGAR POLICE STATION ANNANAGAR MADURAI



3. THE SUPERINTENDENT OF POLICE
TIRUNELVELI DISTRICT PALAYAMKOTTAI
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7. THE INSPECTOR OF POLICE
PUTHIAM PUTHUR POLICE STATION , TUTICORIN DISTRICT.
8. THE SUPERINTENDENT OF POLICE, THENI DISTRICT, THENI
9. THE DEPUTY SUPERINTENDENT OF POLICE
BODINAYAKANUR, THENI DISTRICT
10. THE INSPECTOR OF POLICE, CHINAMANNUR POLICE STATION
CHINAMANNUR, THENI DISTRICT
11. THE SUB-INSPECTOR OF POLICE
CHINAMANNUR POLICE STATION, CHINAMANNUR, THENI DISTRICT
12. THE SUPERINTENDENT OF POLICE, THENI DISTRICT THENI
13. THE INSPECTOR OF POLICE
THENKARAI POLICE STATION, PERIYAKULAM, THENI DISTRICT
14. THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT MADURAI.
15. THE INSPECTOR OF POLICE
TALLAKULAM POLICE STATION MADURAI.
16. THE SUB INSPECTOR OF POLICE
APPANTHIRUPPATHI POLICE STATION , MADURAI DISTRICT.
17. THE INSPECTOR OF POLICE
VASUDEVANALLUR POLICE STATION , TIRUNELVELI DISTRICT
18. THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH DISTRICT CRIME BRANCH
POLICE STATION MADURAI
19. THE SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT DINDIGUL.
20. THE INSPECTOR OF POLICE, NORTH POLICE STATION DINDIGUL.
21. THE SUB INSPECTOR OF POLICE
NORTH POLICE STATION DINDIGUL.
22. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH
COURT, MADURAI.

+One cc to M/s.P.Subbiah, Advocate, SR.No.14286

+One cc to M/s.K.Prabhu, Advocate, SR.No.14055

+One cc to M/s.T.A.Ebanezer, Advocate, SR.No.14310

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RL/26c - 10/4/2015

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