



MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P.(MD)Nos.5061, 5062, 5066, 5068, 5070, 5072,
5074, 5079, 5082 and 5085 of 2015

WEB COPY

BANUMATHI @ PRIYA ... PETITIONER in CRL OP(MD) No.5061 of 2015
M.MAHESWARI ... PETITIONER in CRL OP(MD) No.5062 of 2015
G.LEELAVATHI ... PETITIONER in CRL OP(MD) No.5066 of 2015
S. ARULSELVI ... PETITIONER in CRL OP(MD) No.5068 of 2015
MARIMUTHU ... PETITIONER in CRL OP(MD) No.5070 of 2015
RAMASAMY ... PETITIONER in CRL OP(MD) No.5072 of 2015
JEGADEESAN ... PETITIONER in CRL OP(MD) No.5074 of 2015
BHAGAWATHI ... PETITIONER in CRL OP(MD) No.5079 of 2015
SHANTHI ... PETITIONER in CRL OP(MD) No.5082 of 2015
ARULKUMAR ... PETITIONER in CRL OP(MD) No.5085 of 2015

-VS-

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KARAIKUDI,
SIVAGANGAI DISTRICT. ... RESPONDENT in CRL OP(MD) No.5061 of 2015

1. THE DISTRICT SUPERINTENDENT OF POLICE,
KARUR DISTRICT, KARUR.
- 2 THE INSPECTOR OF POLICE, LAW & ORDER,
KULITHALAI POLICE STATION, KULITHALAI,
KARUR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5062 of 2015
- 1 THE DIRECTOR GENERAL OF POLICE,
KAMARAJAR SALAI, MYLAPORE, CHENNAI.
- 2 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT.
- 3 THE INSPECTOR OF POLICE,
LANDS GRABBING SPECIAL WING,
VIRUDHUNAGAR. ... RESPONDENTS in CRL OP(MD) No.5066 of 2015
- 1 THE DISTRICT SUPERINTENDENT OF POLICE,
DISTRICT SUPERINTENDENT OFFICE, THANJAVOOR.
- 2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
THANJAVOOR. ... RESPONDENTS in CRL OP(MD) No.5068 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.
- 3 THE INSPECTOR OF POLICE,
SRIVILLIPUTHUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5070 of 2015



THE INSPECTOR OF POLICE,
KEERANUR POLICE STATION,
DINDIGUL DISTRICT

... RESPONDENT in CRL OP(MD) No.5072 of 2015

1 THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
KODAIKANAL.

2 THE SUB INSPECTOR OF POLICE,
KODAIKANAL POLICE STATION,
DINDIGUL DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5074 of 2015

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

2 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
KADUPATTY POLICE STATION, SOLAVANTHAN,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5079 of 2015

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SATCHIYAPURAM,
SIVAKASI WEST,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5082 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.

2 THE INSPECTOR OF POLICE,
MELAVALAVU POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5085 of 2015

Criminal Original Petition filed under section 482 of Criminal Procedure Code praying

Prayer in CRL OP(MD) No.5061 of 2015:

To direct the respondent police to register a case based on the complaint given by the petitioner dated 06.02.2015.

Prayer in CRL OP(MD) No.5062 of 2015:

To direct the second respondent to register a case for an alleged offences punishable under sections 447, 379, 294(b), 323 & 506(ii) of IPC on the basis of the petitioner complaint, dated 04.02.2015.

Prayer in CRL OP(MD) No.5066 of 2015:

To direct the 2nd respondent to instruct the 3rd respondent to register the FIR against the accused persons in the stipulated time on the basis of the petitioner representation dated 10.02.2012 and to submit the report before this Honourable High Court.

Prayer in CRL OP(MD) No.5068 of 2015:

To issue a direction, directing the respondents to register the FIR on basis of the complaint of the petitioner dated 22.12.2014 and pass such further or other orders.

Prayer in CRL OP(MD) No.5070 of 2015:

To direct the 3rd respondent to register the complaint dated 09.03.2015 preferred by the petitioner for the offences punishable U/s. 294(b), 341, 406, 420, 506(i) of IPC and section 3 (i)(x) of the SC/ST Act and to take action against the accused persons in accordance with law.

Prayer in CRL OP(MD) No.5072 of 2015:

To direct the respondent to register FIR on the basis of the complaint of the petitioner dated 07.03.2015 in CSR.No.28/2015 and take action as per law.

Prayer in CRL OP(MD) No.5074 of 2015:

To direct the 1st respondent police to instruct the 2nd respondent police to register the case based on the complaint given by the petitioner herein dated 09.03.2015 and investigate the same in accordance with law.

Prayer in CRL OP(MD) No.5079 of 2015:

To direct the Respondent No.3 to register FIR on the basis of the petitioners complaint dated 12.03.2015 and initiate necessary action in accordance with law within the time stipulated.

Prayer in CRL OP(MD) No.5082 of 2015:

To directing the 1st respondent to direct the 2nd respondent to register a case on the basis of the complaint given by the petitioner on 10.03.2015 and to take action against the accused persons.

Prayer in CRL OP(MD) No.5085 of 2015:

To direct the 2nd respondent to register a FIR against Rajendran Director of Thangam finance and others on the basis of petitioners complaint dated 17.02.2015.

PETITIONER ADVOCATE IN

CRL.OP (MD) NO.5061/2015	:	MR.R.M.ARUN SWAMINATHAN
CRL. OP (MD) NO.5062/2015	:	MR.R.MURUGAPPAN
CRL.OP (MD) NO.5066/2015	:	MR.A.RAJARAM
CRL.OP (MD) NO.5068/2015	:	MR.R.MANOCHARAN
CRL.OP (MD) NO.5070/2015	:	MR.R.GANDHI
CRL.OP (MD) NO.5072/2015	:	MR.D.VENKATESH
CRL.OP (MD) NO.5074/2015	:	MR.A.UTHAYAKUMAR
CRL.OP (MD) NO.5079/2015	:	MR.A.ALAGUMANI
CRL.OP (MD) NO.5082/2015	:	MR.P.GANAPATHI SUBRAMANIAN
CRL.OP (MD) NO.5085/2015	:	MR.G.BHAGAVATH SINGH



FOR RESPONDENT

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

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.

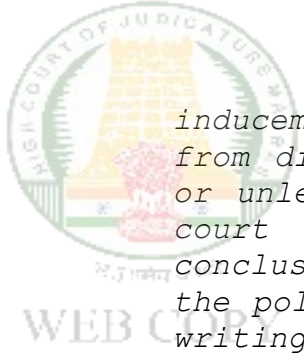
Post after two weeks."

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 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 offence to disappear; or tampering with such evidence in any manner; 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 petitions are ordered as above. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To,

1. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
KARAIKUDI, SIVAGANGAI DISTRICT.
2. THE DISTRICT SUPERINTENDENT OF POLICE,
KARUR DISTRICT, KARUR.
- 3 THE INSPECTOR OF POLICE, LAW & ORDER,
KULITHALAI POLICE STATION, KULITHALAI, KARUR DISTRICT.
- 4 THE DIRECTOR GENERAL OF POLICE,
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LANDS GRABBING SPECIAL WING, VIRUDHUNAGAR.
- 7 THE DISTRICT SUPERINTENDENT OF POLICE,
DISTRICT SUPERINTENDENT OFFICE, THANJAVOOR.
- 8 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, THANJAVOOR.



9 THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.

10 THE INSPECTOR OF POLICE,
SRIVILLIPUTHUR TOWN POLICE STATION, VIRUDHUNAGAR DISTRICT.

11 THE INSPECTOR OF POLICE,
KEERANUR POLICE STATION, DINDIGUL DISTRICT

12 THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
KODAIKANAL.

13 THE SUB INSPECTOR OF POLICE,
KODAIKANAL POLICE STATION, DINDIGUL DISTRICT.

14 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT.

15 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION, MADURAI DISTRICT.

16 THE INSPECTOR OF POLICE,
KADUPATTY POLICE STATION, SOLAVANTHAN, MADURAI DISTRICT.

17 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SATCHIYAPURAM,
SIVAKASI WEST, VIRUDHUNAGAR DISTRICT.

18 THE INSPECTOR OF POLICE,
MELAVALAVU POLICE STATION, MADURAI DISTRICT.

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

+1CC TO MR.CHETTINAD LEGAL SOLUTIONS, IN SR : 13907

+1CC TO MR.R.MURUGAPPAN, ADVOCATE IN SR : 14143

+1CC TO MR.A.RAJARAM, ADVOCATE IN SR : 13838

+1cc to MR.R.GANDHI, Advocate in SR.No. 14123

Ses

SR : 13.04.2015 : 7p/24c

Cr1.O.P.(MD)Nos.5061, 5062, 5066, 5068, 5070, 5072,
5074, 5079, 5082 and 5085 of 2015
23.03.2015