



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.03.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P. (MD) Nos.5081,5084,5110,5111,5135,5179,
5182,5183,5208,5237 and 5294 of 2015 (11 cases)

WEB COPY

KARUPPASAMY	...	PETITIONER in CRL OP(MD) No.5081 of 2015
RAJAN	...	PETITIONER in CRL OP(MD) No.5084 of 2015
RUBASELVI	...	PETITIONER in CRL OP(MD) No.5110 of 2015
KANNAN	...	PETITIONER in CRL OP(MD) No.5111 of 2015
PR. PERIYASAMY @ MUTHAIAH	...	PETITIONER in CRL OP(MD) No.5135 of 2015
G.BALAKRISHNAN	...	PETITIONER in CRL OP(MD) No.5179 of 2015
D.WILFRED SINGH	...	PETITIONER in CRL OP(MD) Nos.5182 & 5183 of 2015
KAMALAPATHI	...	PETITIONER in CRL OP(MD) No.5208 of 2015
V.M.PANDEESWARI	...	PETITIONER in CRL OP(MD) No.5237 of 2015

1 P.PALANISAMY

2 A.SHANTHI ... PETITIONERS in CRL OP(MD) No.5294 of 2015

-VS-

1 THE SUPERINTENDENT OF POLICE, THENI DISTRICT, THENI.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, UTHAMAPALAYAM
THENI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5081 of 2015

1 THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI.

2 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
ALANGANALLUR POLICE STATION, MADURAI DISTRICT.

4 THE INSPECTOR OF POLICE,
KODAL PUDUR POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5084 of 2015

1 THE INSPECTOR OF POLICE,
KOVILPATTI WEST POLICE STATION, KOVILPATTI.

2 THE SUPERINTENDENT OF POLICE,
TUTICORIN DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5110 of 2015

1 THE SUPERINTENDENT OF POLICE,
DINDIGUL, DINDIGUL DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
VEDASENTHUR, DINDIGUL.

3 THE INSPECTOR OF POLICE,
ERIYODU POLICE STATION, DINDIGUL DISTRICT.

4 THE SUB INSPECTOR OF POLICE,
ERIYODU POLICE STATION,
DINDIGUL DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5111 of 2015



1 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI.

2 THE INSPECTOR OF POLICE,
SAKKOTTAI POLICE STATION,
SIVAGANGAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5135 of 2015

1 THE INSPECTOR O F POLICE,
JAIHINDPURAM POLICE STATION,
SUBRAMANIAPURAM, MADURAI.

2 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI. ... RESPONDENTS in CRL OP(MD) No.5179 of 2015

1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI.

2 THE INSPECTOR OF POLICE,
VALLIYUR POLICE STATION, VALLIYUR
TIRUNELVELI DISTRICT.

3 THIRU.MUTHU PREM CHAND
INSPECTOR OF POLICE, VALLIYUR POLICE STATION,
VALLIYUR, TIRUNELVELI DIST.

4 C.FRANCIES PONIPAST KEISER,
... RESPONDENTS in CRL OP(MD) Nos.5182 & 5183 of 2015

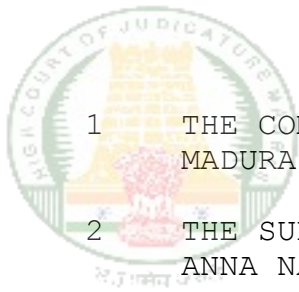
1 THE DIRECTOR GENERAL OF POLICE,
OFFICE OF THE DIRECTOR GENERAL OF POLICE,
BEACH ROAD, CHENNAI.

2 THE INSPECTOR OF POLICE,
OFFICE OF THE INSPECTOR OF POLICE, CENTRAL ZONE,
TRICHY DISTRICT.

3 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
THANJAVUR DISTRICT.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
PATTUKOTTAI, SUB-DIVISION, THANJAVUR DISTRICT.

5 THE INSPECTOR OF POLICE,
PATTUKOTTAI STATION,
THANJAVUR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5208 of 2015



1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

2 THE SUB INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION, MADURAI CITY.

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3 ANBARASAN

... RESPONDENTS in CRL OP(MD) No.5237 of 2015

1 THE INSPECTOR OF POLICE, LAW AND ORDER,
THUVAKUDY POLICE STATION, TIRUCHIRAPPALLI 620015.

2 S.KULANDAIVELU ... RESPONDENTS in CRL OP(MD) No.5294 of 2015

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure

Prayer in CRL OP(MD) No.5081 of 2015:

To direct the Respondents not to harass the Petitioner under the guise of enquiry without due process of law.

Prayer in CRL OP(MD) No.5084 of 2015:

To direct the respondent No.1 to instruct the respondent No. 3 for not to harass the petitioner and his family members in the name of enquiry by considering the representation preferred by the petitioner dated 05.03.2015.

Prayer in CRL OP(MD) No.5110 of 2015:

To direct the respondents herein not to harass the petitioner.

Prayer in CRL OP(MD) No.5111 of 2015:

To directing the 3rd and 4th respondents to not to harass the petitioner based on the representation made by the petitioner dated 13.03.2015.

Prayer in CRL OP(MD) No.5135 of 2015:

To direct the 2nd respondent not to interfere the civil dispute and consequently directing them not to harass the Petitioner and his family members.

Prayer in CRL OP(MD) No.5179 of 2015:

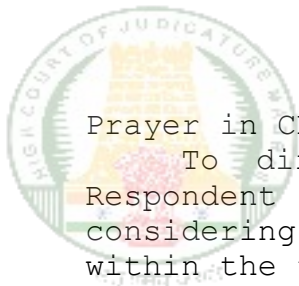
To direct the respondents not to harass the petitioner.

Prayer in CRL OP(MD) No.5182 of 2015:

To direct the respondent No.2 not to harass the petitioner in enquiring civil dispute on the basis of petitioners representation dated 06.03.2015.

Prayer in CRL OP(MD) No.5183 of 2015:

To direct the respondent No.2 not to interfere in civil dispute on the basis of petitioner's representation dated 06.03.2015.



Prayer in CRL OP(MD) No.5208 of 2015:

To direct the Respondents No.1 to 3 to strictly instruct the Respondent Nos.4 and 5 not harass the petitioner and his Trust by considering his representation dated 03.03.2015 in accordance with law within the time stipulated.

Prayer in CRL OP(MD) No.5237 of 2015:

To direct the 2nd respondent not to harass or ill treat the petitioner on the guise of enquiry in connection with a civil dispute at the instance of the 3rd respondent.

Prayer in CRL OP(MD) No.5294 of 2015:

To pass an order directing the 1st respondent not to harass the petitioners in connection with the complaint lodged by the 2nd respondent or in any other manner whatsoever and pass other orders which are deemed fit.

For Petitioner/Petitioners

: Mr.D.Rameshkumar in Crl.O.P.No.5081/2015
: Mr.R.Alagumani in Crl.O.P.No.5084/2015
: Mr.S.Ravi in Crl.O.P.No.5110/2015
: Mr.N.Mariappan in Crl.O.P.No.5111/2015
: Mr.RM.Arun Swaminathan in Crl.O.P.No.5135/2015
: Mr.V.A.Dhana Aravindha Balaji in Crl.O.P.No.5179/2015
: Mr.S.Sivasubramanian in Crl.O.P.No.5182/2015
: Mr.S.Sivasubramanian in Crl.O.P.No.5183/2015
: Mr.R.Alagumani in Crl.O.P.No.5208/2015
: Mr.R.Gandhi in Crl.O.P.No.5237/2015
: Mr.K.S.Shankar Murali in Crl.O.P.No.5294/2015

For Respondents in all Crl.O.Ps.

Except R4 in Crl.OP(MD)No.5182 & 5183/15

and R3 in Crl.OP(MD)No.5237/15

& R2 in Crl.OP(MD)No.5294/15

: Mr.K.V.Rajarajan
Government Advocate (Crl.side)

C O M M O N O R D E R

All the petitioners seek directions to the respective respondents not to harass the petitioners and their family members under the guise of enquiry.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side).

3. The petitioners in all these petitions alleged harassment at the hands of the respective police/respondent. Given the guidelines of the Apex Court in *Lalita Kumari vs. Government of U.P. and others reported in 2013 (4) Crimes 243 (SC)* and in *Arnesh Kumar vs. State of Bihar and Another reported in (2014) 3 MLJ (Crl) (SC)*, these petitions may be disposed of on the following lines:



In the normal course, the respondent police shall not require the presence of the petitioners before them. In an exceptional case, the respondent police may upon receipt of complaints, require the persons accused to appear before them for the purpose of enquiry. Such enquiry shall not extend beyond the period of one week. In the event of respondent police registering cases for offences punishable with imprisonment up to 7 years, both respondent police as well as the concerned jurisdictional Magistrate before whom accused persons are produced for the purpose of remand strictly shall follow the dictate of Supreme Court in *Arnesh Kumar vs. State of Bihar and Another* reported in (2014) 3 MLJ (Crl) (SC), paragraph Nos.9, 14 and 15 whereof state as follows:

"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 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



(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)

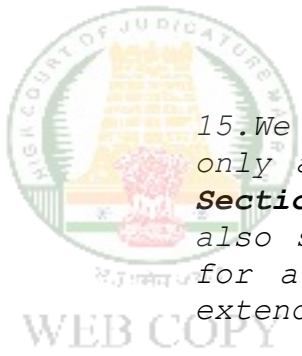
Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

•(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 Criminal Original Petitions are ordered accordingly.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

TO

- 1 THE SUPERINTENDENT OF POLICE, THENI DISTRICT, THENI.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, UTHAMAPALAYAM, THENI DISTRICT.
- 3 THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI.
- 4 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT.
- 5 THE INSPECTOR OF POLICE,
ALANGANALLUR POLICE STATION, MADURAI DISTRICT.
- 6 THE INSPECTOR OF POLICE,
KODAL PUDUR POLICE STATION, MADURAI DISTRICT.
- 7 THE INSPECTOR OF POLICE,
KOVILPATTI WEST POLICE STATION, KOVILPATTI.
- 8 THE SUPERINTENDENT OF POLICE, TUTICORIN DISTRICT.
- 9 THE SUPERINTENDENT OF POLICE, DINDIGUL, DINDIGUL DISTRICT.
- 10 THE DEPUTY SUPERINTENDENT OF POLICE, VEDASENTHUR, DINDIGUL.
- 11 THE INSPECTOR OF POLICE, ERIYODU POLICE STATION,
DINDIGUL DISTRICT.
- 12 THE SUB INSPECTOR OF POLICE,
ERiyodu POLICE STATION, DINDIGUL DISTRICT.
- 13 THE SUPERINTENDENT OF POLICE, SIVAGANGAI.
- 14 THE INSPECTOR OF POLICE,
SAKKOTTAI POLICE STATION, SIVAGANGAI DISTRICT.
- 15 THE INSPECTOR OF POLICE,
JAIHINDPURAM POLICE STATION, SUBRAMANIPURAM, MADURAI.



16 THE SUPERINTENDENT OF POLICE, TIRUNELVELI DISTRICT, TIRUNELVELI.

17 THE INSPECTOR OF POLICE,
VALLIYUR POLICE STATION, VALLIYUR, TIRUNELVELI DISTRICT.

18 THE DIRECTOR GENERAL OF POLICE,
OFFICE OF THE DIRECTOR GENERAL OF POLICE,
BEACH ROAD, CHENNAI.

19 THE INSPECTOR OF POLICE,
OFFICE OF THE INSPECTOR OF POLICE, CENTRAL ZONE,
TRICHY DISTRICT.

20 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, THANJAVUR DISTRICT.

21 THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
PATTUKOTTAI, SUB-DIVISION, THANJAVUR DISTRICT.

22 THE INSPECTOR OF POLICE,
PATTUKOTTAI STATION, THANJAVUR DISTRICT.

23 THE SUB INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION, MADURAI CITY.

24 THE INSPECTOR OF POLICE, LAW AND ORDER,
THUVAKUDY POLICE STATION, TIRUCHIRAPPALLI 620015.

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

+1CC TO MR.D.RAMESHKUMAR, ADVOCATE IN SR : 14113

+1CC TO MR.S.RAVI, ADVOCATE IN SR : 13962

+1CC TO M/S.CHETTINAD LEGAL SOLUTIONS, IN SR : 13908

+1CC TO M/S.DHARA LAW ASSOCIATES, IN SR : 14477

+1CC TO MR.S.SIVASUBRAMANIAN, ADVOCATE IN SR : 14128

+1CC TO MR.A.NAGARAJAN, ADVOCATE IN SR : 14125

+1CC TO MR.K.S.SANKHARMURALI, ADVOCATE IN SR : 14429

Pjl/Ses

SR : 15.04.2015 : 8p/33c

Cr1.O.P. (MD) Nos.5081,5084,5110,5111,5135,5179,
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