



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2015

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

CrI.O.P.(MD)No.5192 of 2015 & MP(MD)No.1 of 2015

1.S.Sivanesan

2.S.Rajalakshmi

... Petitioners/Accused 2 & 3

Vs.

1. State through The Inspector of Police

All Women Police Station,

Ottanchathiram, Palani Taluk

Dindigul District.

(Cr.No.26 of 2013)

..1st Respondent/Complainant

2.L.Suguna

..2nd Respondent/Defacto Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to quash the impugned complaint made in Cr.No.26 of 2013 on the file of the 1st respondent.

For Petitioner : Mr.K.K.Kannan

For Respondent-1: Mr.K.Anbarasan, G.A (CrI.side)

O R D E R

The Petitioner seeks to quash the case in Crime No.26 of 2013 on the file of the 1st respondent police.

2. Reading of the complaint prima facie informs commission of offence. Hence, this Criminal Original Petition shall stand dismissed. However, the clear dictum of the Honourable Apex Court in *Arnesh Kumar vs. State of Bihar and Another* reported in (2014) 3 MLJ (CrI) (SC), is to be followed both by the respondent police as also the concerned jurisdictional Magistrate. For ready reference, paragraph 14 and 15 of the judgment referred to is reproduced hereunder:

"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."

Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Oddanchatram.

2. The Inspector of Police, All Women Police Station,
Ottanchathiram, Palani Taluk, Dindigul District.

3. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to MR.K.K.KANNAN, ADVOCATE IN SR : 15232

RR

SR : 10.04.2015 : 2p/5c