



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2015
CORAM

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.O.P. (MD) Nos.5228, 5229, 5230, 5236, 5238, 5239,
5264, 5267, 5268 and 5270 of 2015

IN CRL.O.P. (MD) NO.5228 OF 2015

S.AROKIASAMY

... PETITIONER

VS.

- 1.THE DIRECTOR GENERAL OF POLICE,
THE OFFICE OF DIRECTOR GENERAL OF POLICE, CHENNAI.
 - 2.THE SUPERINTENDENT OF POLICE, TRICHIRAPPALLI DISTRICT .
 - 3.THE INSPECTOR OF POLICE,
THUVAKKUDY POLICE STATION,
TRICHIRAPPALLI DISTRICT.
- ... RESPONDENTS

CRL OP (MD) No.5229 of 2015
THANGAMUTHU

... PETITIONER

- VS -

- 1 THE SUPERINTENDENT OF POLICE
KARUR DISTRICT KARUR.
- 2 THE INSPECTOR OF POLICE
ARAVAKURICHI POLICE STATION
KARUR DISTRICT.

... RESPONDENTS

CRL.OP (MD) NO.5230/15:-

MALAR

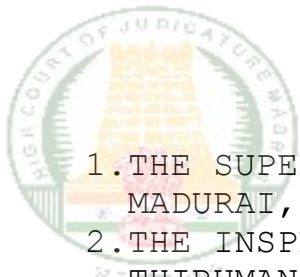
..PETITIONER

VS -

- 1.THE SUPERINTENDENT OF POLICE
O/O.THE SUPERINTENDENT OF POLICE, THANAJVUR
- 2.THE INSPECTOR OF POLICE
PAPPANADU, THANAJVUR DISTRICT
- 3.THE SUB-INSPECTOR OF POLICE
VATTATHIKOTTAI, THANAJVUR DISTRICT

..RESPONDENTS

CRL.OP (MD) NO.5236/2015:-



1. THE SUPERINTENDENT OF POLICE
MADURAI, MADURAI DISTRICT
2. THE INSPECTOR OF POLICE
THIRUMANGALAM POLICE STATION
MADURAI

..RESPONDENTS

CRL.OP (MD) NO.5238/2015:-

MALAISAMY

..PETITIONER

VS

1. THE SUPERINTENDENT OF POLICE
THENI DISTRICT
2. THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH
THENI DISTRICT

..RESPONDENTS

CRL.OP (MD) NO.5239/2015:

V.RAJAGOPAL

..PETITIONER

- VS -

1. THE SUPERINTENDENT OF POLICE
THANAJVUR DISTRICT
2. THE SUB -INSPECTOR OF POLICE
THIRUVIDAIMARUDHUR POLICE STATION
THANAJVUR DISTRICT

...RESPONDENTS

-

CRLOP (MD) NO.5264/2015:-

V.DEVARAJ,

..PETITIONER

- VS -

1. THE SUPERINTENDENT OF POLICE
MADURAI DISTRICT, MADURAI
2. THE INSPECTOR OF POLICE, OOMATCHIKULAM POLICE STATION
MADURAI

..RESPONDENTS

CRL OP (MD) No.5267 of 2015

K.KAVITHA

...PETITIONER

- VS -

1 THE SUPERINTENDENT OF POLICE
TRICHY DISTRICT TRICHY

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION THIRUVARAMBUR
TRICHY DISTRICT

..RESPONDENTS



CRL.OP (MD) NO.5268/2015:-
K.PANEER SELVAM

..PETITIONER

- VS -

1. THE SUPERINTENDENT OF POLICE
THIRUCHIRAPALLI DISTRICT THIRUCHIRAPALLI

2 THE INSPECTOR OF POLICE
THOTTIYAM POLICE STATION THIRUCHIRAPALLI
DISTRICT ..RESPONDENTS

CRL.OP (MD) NO.5270/2015:-

P.MURUGANANDHAM

..PETITIONER

- VS -

1 THE COMMISSIONER OF POLICE
MADURAI

2 THE INSPECTOR OF POLICE
THIRUPPARANKUNDRAM POLICE STATION
THIRUPPARANKUNDRAM MADURAI DISTRICT ... RESPONDENTS

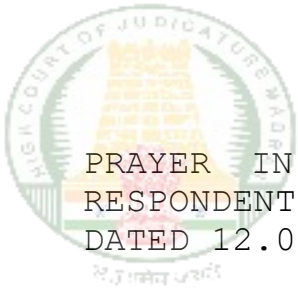
PRAYER IN CRL OP(MD) NO.5228 OF 2015: TO ISSUE A DIRECTION DIRECTING THE RESPONDENT NO.3 TO REGISTER THE COMPLAINT DATED 24.01.2015 GIVEN BY THE PETITIONER IN ACCORDANCE WITH LAW AND PASS SUCH FURTHER OR OTHER ORDERS.

PRAYER IN CRL OP(MD) NO.5229 OF 2015: TO DIRECT THE 2ND RESPONDENT TO REGISTER THE CASE AGAINST THE PROPOSED TO REGISTER THE CASE AGAINST THE PROPOSED ACCUSED ON THE BASIS OF THE PETITIONERS COMPLAINT DATED 26.11.2014 AND INVESTIGATE THE MATTER ACCORDANCE WITH LAW.

PRAYER IN CRL OP(MD) NO.5230 OF 2015: TO DIRECT THE 2ND RESPONDENT TO REGISTER A CASE UPON THE PETITIONERS COMPLAINT DATED 11.03.2015 AND TO INVESTIGATE THE MATTER AS PER LAW.

PRAYER IN CRL OP(MD) NO.5236 OF 2015: TO DIRECT THE 2ND RESPONDENT TO REGISTER THE CASE ON THE PETITIONERS COMPLAINT DATED 14.02.2015.

PRAYER IN CRL OP(MD) NO.5238 OF 2015: TO DIRECT THE 2ND RESPONDENT TO REGISTER THE COMPLAINT DATED 14.03.2015 PREFERRED BY THE PETITIONER AND TO TAKE ACTION AGAINST THE ACCOUSED IN ACCORDANCE WITH LAW.



PRAYER IN CRL OP(MD) NO.5239 OF 2015: TO DIRECTION THE 2ND RESPONDENT TO REGISTER FIR ON THE BASIS OF PETITIONERS COMPLAINT DATED 12.03.2015 AND INVESTIGATE THE SAME IN ACCORDANCE WITH LAW.

PRAYER IN CRL OP(MD) NO.5264 OF 2015: TO DIRECTING THE 2ND RESPONDENT TO REGISTER A CASE ON THE PETITIONERS COMPLAINT DATED 11.03.2015.

PRAYER IN CRL OP(MD) NO.5267 OF 2015: TO DIRECT THE 2ND RESPONDENT TO REGISTER A CRIMINAL CASE AGAINST THE ACCUSED BASED ON THE COMPLAINT DATED 04.03.2015 PREFERRED BY THE PETITIONER FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 498(A), 406, 506(II) OF INDIAN PENAL CODE AND SECTION 4 AND 5 OF DOWRY PROHIBITION ACT AND SECTION 4 OF WOMEN HARASSMENT ACT AND TO TAKE ACTION AGAINST THE ACCUSED IN ACCORDANCE WITH LAW AND PASS SUCH FURTHER OR OTHER ORDERS.

PRAYER IN CRL OP(MD) NO.5268 OF 2015: TO DIRECT THE RESPONDENTS TO REGISTER A CASE BASED ON THE COMPLAINT GIVEN BY THE PETITIONER ON 06.03.2015 AND PASS SUCH FURTHER OR OTHER ORDERS.

PRAYER IN CRL OP(MD) NO.5270 OF 2015: TO DIRECT THE 2ND RESPONDENT POLICE TO REGISTER A FIR BASED ON THE PETITIONERS COMPLAINT DATED 07.03.2015 AND INVESTIGATE THE SAME IN ACCORDANCE WITH LAW, AND PASS SUCH FURTHER OR OTHER ORDERS.

For Petitioner/Petitioners

- : Mr.R.Suresh Kumar in Crl.O.P.No.5228/2015
- : Mr.R.Mathiyalagan in Crl.O.P.No.5229/2015
- : Mr.K.K.Ramakrishnan in Crl.O.P.No.5230/2015
- : Mr.M.Subash Babu in Crl.O.P.No.5236/2015
- : Mr.A.Nagarajan in Crl.O.P.No.5238/2015
- : Mr.V.Achuthan in Crl.O.P.No.5239/2015
- : Mr.P.R.Prithiviraj in Crl.O.P.No.5264/2015
- : Mr.S.A.Ajmalkhan in Crl.O.P.No.5267/2015
- : Mr.P.T.Ramesh Raja in Crl.O.P.No.5268/2015
- : Mr.K.Gokul in Crl.O.P.No.5270/2015

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

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"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.

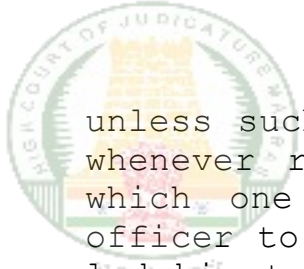
Post after two weeks."

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 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 direction:

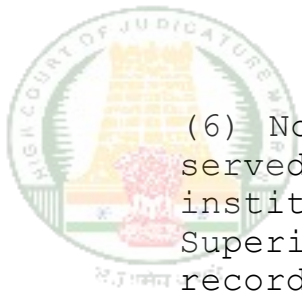
(1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.P.C;

(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;

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(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 Register (C.O)

/True Copy/

Sub-Assistant Registrar

To

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

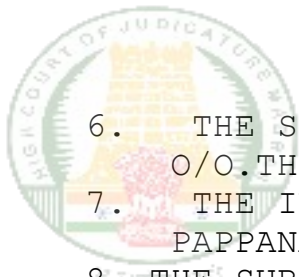
2. THE SUPERINTENDENT OF POLICE,
TRICHIRAPPALLI DISTRICT .

3. THE INSPECTOR OF POLICE,
THUVAKKUDY POLICE STATION,
TRICHIRAPPALLI DISTRICT.

4. THE SUPERINTENDENT OF POLICE
KARUR DISTRICT KARUR.

<https://hcservices.ecourts.gov.in/hcservices/>

5. THE INSPECTOR OF POLICE
ARAVAKURICHI POLICE STATION , KARUR DISTRICT.



6. THE SUPERINTENDENT OF POLICE
O/O.THE SUPERINTENDENT OF POLICE, THANAJVUR
7. THE INSPECTOR OF POLICE
PAPPANADU, THANAJVUR DISTRICT
8. THE SUB-INSPECTOR OF POLICE, VATTATHIKOTTAI, THANAJVUR DISTRICT
9. THE SUPERINTENDENT OF POLICE, MADURAI, MADURAI DISTRICT
10. THE INSPECTOR OF POLICE
THIRUMANGALAM POLICE STATION, MADURAI
11. THE SUPERINTENDENT OF POLICE, THENI DISTRICT
12. THE INSPECTOR OF POLICE DISTRICT CRIME BRANCH
THENI DISTRICT
13. THE SUB -INSPECTOR OF POLICE,
THIRUVIDAIMARUDHUR POLICE STATION
THANAJVUR DISTRICT
14. THE INSPECTOR OF POLICE, OOMATCHIKULAM POLICE STATION
MADURAI
15. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION THIRUVARAMBUR , TRICHY DISTRICT
16. THE INSPECTOR OF POLICE
THOTTIYAM POLICE STATION THIRUCHIRAPALLI
DISTRICT
17. THE COMMISSIONER OF POLICE, MADURAI
18. THE INSPECTOR OF POLICE
THIRUPPARANKUNDRAM POLICE STATION
THIRUPPARANKUNDRAM MADURAI DISTRICT
19. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+One cc to Mr.R.Suresh Kumar, Advocate, SR.No.14184
+One cc to M/s.K.Gokul, Advocate. SR.No.13980
+One cc to M/s.V.Achuthan, Advocate Sr.No.14048
+One cc to M/S.A.Nagarajan, Advocate, SR.No.14124

RL/24c - 10/4/2015

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23.03.2015