



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2015

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.O.P.(MD)Nos.5303/2015, 5364/2015, 5369/2015, 5385/2015,
5431/2015, 5434/2015, 5452/2015, 5457/2015, 5459/2015 and 5484 of
2015 (10 cases)

SANGILI MURUGAN ... PETITIONER in CRL OP(MD) No.5303 of 2015

S.AATHI MOOLAM ... PETITIONER in CRL OP(MD) No.5364 of 2015

SOORAJ ... PETITIONER in CRL OP(MD) No.5369 of 2015

SARASWATHI ... PETITIONER in CRL OP(MD) No.5385 of 2015

1 ALAGUDEVARAYAR @ ALAGAR

2 PUSHPAVALLI ... PETITIONERS in CRL OP(MD) No.5431 of 2015

S.SUBRAMANIAN ... PETITIONER in CRL OP(MD) No.5434 of 2015

A.C.GURUNATHAN ... PETITIONER in CRL OP(MD) No.5452 of 2015

V.K.VADIVEL KARUPPAIAH ... PETITIONER in CRL OP(MD)No.5457 of 2015

1 L.S. PRASHANTH

2 L. SRIVATHSAN ... PETITIONERS in CRL OP(MD) No.5459 of 2015

SREENIVASAN ... PETITIONER in CRL OP(MD) No.5484 of 2015

-VS-

1 THE SUPERINTENDENT OF POLICE
PUDUKKOTTAI PUDUKKOTTAI DISTRICT.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION ALANGUDI
PUDUKKOTTAI PUDUKKOTTAI DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/> ... RESPONDENTS in CRL OP(MD) No.5303 of 2015



THE SUB INSPECTOR OF POLICE
KALLIKUDI POLICE STATION, KALLIKUDI,
MADURAI DISTRICT. ... RESPONDENT in CRL OP(MD) No.5364 of 2015

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1 THE SUPERINTENDENT OF POLICE
THENI.

2 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THENI
... RESPONDENTS in CRL OP(MD) No.5369 of 2015

1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

2 THE ASSISTANT COMMISSIONER OF POLICE,
ANNA NAGAR, MADURAI CITY.

3 THE SUB INSPECTOR OF POLICE (CRIME),
K.PUDHUR POLICE STATION, MADURAI CITY.

4 MALLIGA ... RESPONDENTS in CRL OP(MD) No.5385 of 2015

1 THE SUPERINTENDENT OF POLICE
DINDIUGL DISTRICT DINDIUGL.

2 THE STATE REP. BY ITS
THE INSPECTOR OF POLICE TOWN SOSUTH POLICE
STATION DINDIUGL RESPONDENTS in CRL OP(MD) No.5431 of 2015

1 THE SUPERINTENDENT OF POLICE
MADURAI DISTRICT, MADURAI.

2 THE INSPECTOR OF POLICE
MELUR POLICE STATION, MADURAI DISTRICT.
... RESPONDENTS in CRL OP(MD) No.5434 of 2015

1 THE COMMISSIONER OF POLICE,
MADURAI.

2 THE INSPECTOR OF POLICE
AVANIPURAM POLICE STATION, MADURAI.
... RESPONDENTS in CRL OP(MD) No.5452 of 2015

1 THE SUPERINTENDENT OF POLICE
O/O. DISTRICT POLICE OFFICE, VIRUDHUNAGAR.



2 MR.SIVAKUMAR
THE DEPUTY SUPERINTENDENT OF POLICE
O/O.THE DEPUTY SUPERINTENDENT OF POLICE
TIRUCHULI VIRUDHUNAGAR.

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... RESPONDENTS in CRL OP(MD) No.5457 of 2015

- 1 THE SUPERINTENDENT OF POLICE
DINDIUGL DISTRICT.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE
PALANI SUB- DIVISION, DINDIUGL DISTRICT.
- 3 THE INSPECTOR OF POLICE
PALANI TOWN POLICE STATION DINDIGUL DISTRICT.

... RESPONDENTS in CRL OP(MD) No.5459 of 2015

- 1 THE SUPERINTENDENT OF POLICE
KANYAKUMARI DIST, NAGERCOIL
- 2 THE INSPECTOR OF POLICE
RAJAKKAMANGALM POLICE STATION, KANYAKUMARI DIST.

... RESPONDENTS in CRL OP(MD) No.5484 of 2015

Prayer in CRL OP(MD) No.5303 of 2015:

To direct the 1st respondent to instruct the 2nd respondent not to harass the petitioners under the guise of enquiry without follow the due process of law.

Prayer in CRL OP(MD) No.5364 of 2015:

To direct the respondent police not to harass /threaten the petitioner as per police standing order 562 (2)(b) as well as u/s 157 (1)(b) of Cr.P.C since the dispute involves civil in nature

Prayer in CRL OP(MD) No.5369 of 2015:

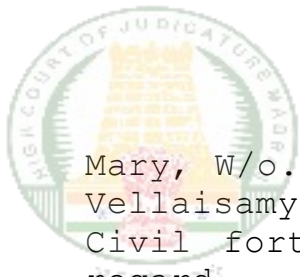
To direct the 2nd respondent not to harass the petitioner under the guise of enquiry on the basis of the complaint lodged by the purchasers of property from the power agent gunasekaran.

Prayer in CRL OP(MD) No.5385 of 2015:

To direct the 3rd respondent not to harass or oil-treat the petitioner and her family members on the guise of enquiry in connection with a money transaction at the instance of the 4th respondent.

Prayer in CRL OP(MD) No.5431 of 2015:

To pass an order directing the respondents more particularly the 2nd respondent not to involve or interfering in the civil dispute between the petitioners and their rival party namely Amalorpava



Mary, W/o. Xavier, Mariammal W/o. Appavu Servai, Chellammal W/o. Vellaisamy and Xavier S/o. Savariyar Which is full in the nature of Civil forthwith and also not to harass the petitioners in this regard.

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Prayer in CRL OP(MD) No.5434 of 2015:

To direct the respondent police not to harass the petitioner in the name of enquiry.

Prayer in CRL OP(MD) No.5452 of 2015:

To direct the 2nd respondent herein not to interfere with the civil dispute till disposal of the O.S.No.429 of 2012 on the file of the sub ordinate Court, Madurai.

Prayer in CRL OP(MD) No.5457 of 2015:

To direction to the 2nd respondent not to harass the petitioner in connivance with one Sundaram under the influence of Vijaya Raghavan and Masilamani taking into account of the petitioners representation dated 20.03.2015.

Prayer in CRL OP(MD) No.5459 of 2015:

To issue an order of direction not to harass the petitioners in view of forcing them to part with a huge amount to one Jawahar S/O. Karuppusamy on the basis of his complaint which is purely civil in nature and pass such further or other orders as this Hon'ble Court.

Prayer in CRL OP(MD) No.5484 of 2015:

To issue a direction against the respondents herein not to harass the petitioner and his family members under the guise of enquiry based on the petitioners representation dated 02.03.2015 to the 1st respondent herein.

For Petitioner/Petitioners

- : Mr.G.Mathavan in Crl.O.P.No.5303/2015
- : Mr.T.Chandrasekaran in Crl.O.P.No.5364/2015
- : Mr.P.GanapathiSubramanian in Crl.OP.No.5369/2015
- : Mr.R.Gandhi in Crl.O.P.No.5385/2015
- : Mr.S.Balaji in Crl.O.P.No.5431/2015
- : Mr.S.Murugaian in Crl.O.P.No.5434/2015
- : Mr.V.Angusamy in Crl.O.P.No.5452/2015
- : Mr.M.Sendhil Kumar in Crl.O.P.No.5457/2015
- : Mr.A.K.Manickam in Crl.O.P.No.5459/2015
- : Mr.K.Vamanan in Crl.O.P.No.5484/2015

For Respondents in all Crl.O.Ps.

(Except 4th Respondent : Mr.K.V.Rajarajan
in Crl.O.P.No.5385/2015) Government Advocate (Crl.side)

**COMMON ORDER**

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 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;

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;

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•(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)



To

1. THE SUPERINTENDENT OF POLICE
PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.

2. THE SUPERINTENDENT OF POLICE
THENI

3. THE SUPERINTENDENT OF POLICE
DINDIUGL DISTRICT DINDIUGL.

4. THE SUPERINTENDENT OF POLICE
MADURAI DISTRICT, MADURAI.

5. THE SUPERINTENDENT OF POLICE
O/O. DISTRICT POLICE OFFICE, VIRUDHUNAGAR.

6. THE SUPERINTENDENT OF POLICE
KANYAKUMARI DIST, NAGERCOIL

7. THE COMMISSIONER OF POLICE,
MADURAI

8. THE DEPUTY SUPERINTENDENT OF POLICE,
PALANI SUB- DIVISION, DINDIUGL DISTRICT.

9. THE ASSISTANT COMMISSIONER OF POLICE,
ANNA NAGAR, MADURAI CITY.

10. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, ALANGUDI,
PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.

11. THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THENI

12. THE INSPECTOR OF POLICE
TOWN SOUTH POLICE STATION, DINDIGUL

13. THE INSPECTOR OF POLICE
MELUR POLICE STATION, MADURAI

14. THE INSPECTOR OF POLICE
AVANIAPURAM POLICE STATION, MADURAI

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15. THE INSPECTOR OF POLICE
PALANI TOWN POLICE STATION, DINDIGUL



16. THE INSPECTOR OF POLICE
RAJAKKAMANGAKALAM POLICE STATION, KANYAKUMARI DISTRICT

17. THE SUB INSPECTOR OF POLICE
KALLIKUDI POLICE STATION, KALLIKUDI, MADURAI

18. THE SUB INSPECTOR OF POLICE
(CRIME), K.PUDHUR POLICE STATION, MADURAI CITY

19. MR.SIVAKUMAR
THE DEPUTY SUPERINTENDENT OF POLICE
O/O.THE DEPUTY SUPERINTENDENT OF POLICE , TIRUCHULI
VIRUDHUNAGAR.

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

+1cc to Mr.G.Mathavan, Advocate Sr.No.14853
+1cc to Mr.T.Chandrasekaran, Advocate Sr.No.15407
+1cc to Mr.P.Ganapathi Subramanian, Advocate Sr.No.15752
+1cc to Mr.R.Gandhi, Advocate Sr.No.15086
+1cc to Mr.S.Balaji, Advocate Sr.No.15271
+1cc to Mr.V.Angusamy, Advocate Sr.No.14760
+1cc to Mr.A.K.Manickam , Advocate Sr.No.14904
+1cc to Mr.K.Vamanan, Advocate Sr.No.15658

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AA/15.04.2015/9p- 29c/

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