



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2015

CORAM

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P.(MD)Nos.5514 to 5518, 5571, 5552, 5551, 5548, 5541
and 5521/2015 (11 cases)

DR.S.MARIAPPAN ... PETITIONER in CRL OP(MD) No.5514 of 2015
DR.A.GANESAN ... PETITIONER in CRL OP(MD) No.5515 of 2015
DR.A.MAHADEVAN ... PETITIONER in CRL OP(MD) No.5516 of 2015
DR.G.ANANTHARAJ ... PETITIONER in CRL OP(MD) No.5517 of 2015
DR.S.MURUGESAN ... PETITIONER in CRL OP(MD) No.5518 of 2015
K.ARUMUGAM ... PETITIONER in CRL OP(MD) No.5571 of 2015

1 K.MARICHAMY
2 K.BALASUBRAMANI ... PETITIONERS in CRL OP(MD) No.5552 of 2015

1 KAYAMBU
2 C.DURAI ... PETITIONERS in CRL OP(MD) No.5551 of 2015

APPAMMAL ... PETITIONER in CRL OP(MD) No.5548 of 2015
MR.S.RAJAMEERA ... PETITIONER in CRL OP(MD) No.5541 of 2015
JAMAL MAIDEEN ... PETITIONER in CRL OP(MD) No.5521 of 2015

-VS-

THE INSPECTOR OF POLICE,
MARANERI POLICE STATION,
VIRUDHUNAGAR DISTRICT. ... RESPONDENT in CRL OP(MD) No.5514 of 2015

THE INSPECTOR OF POLICE,
CHINNAMANUR POLICE STATION,
THENI DISTRICT. ... RESPONDENT in CRL OP(MD) No.5515 of 2015

THE INSPECTOR OF POLICE,
SETTUR POLICE STATION, RAJAPALAYAM TALUK,
VIRUDHUNAGAR DISTRICT. ... RESPONDENT in CRL OP(MD) No.5516 of 2015

THE INSPECTOR OF POLICE,
ALANKULAM POLICE STATION, SIVAKASI TALUK,
VIRUDHUNAGAR DISTRICT. ... RESPONDENT in CRL OP(MD) No.5517 of 2015

THE INSPECTOR OF POLICE,
MARANERI POLICE STATION,
VIRUDHUNAGAR DISTRICT. ... RESPONDENT in CRL OP(MD) No.5518 of 2015



1 THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT, TRICHY.

2 THE SUB INSPECTOR OF POLICE,
THATHAIYANKARPETTAI POLICE STATION,
TRICHY DISTRICT.

3 MR.BALA KRISHNAN,
THE SUB-INSPECTOR OF POLICE,
THATHAIYANKARPETTAI POLICE STATION,
TRICHY DISTRICT.

4 SARAVANAN ... RESPONDENTS in CRL OP(MD) No.5571 of 2015

THE INSPECTOR OF POLICE,
ODDANCHATHIRAM POLICE STATION,
DINDIGUL. ... RESPONDENT in CRL OP(MD) No.5552 of 2015

1. THE SUPERINTENDENT OF POLICE,
RAMANATHAPURAM DISTRICT.

2. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, DISTRICT POLICE OFFICE,
RAMANATHAPURAM DISTRICT. .. RESPONDENTS in CRL OP(MD) No.5551 of 2015

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

2 THE INSPECTOR OF POLICE,
SIVAKASI EAST POLICE STATION,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5548 of 2015

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

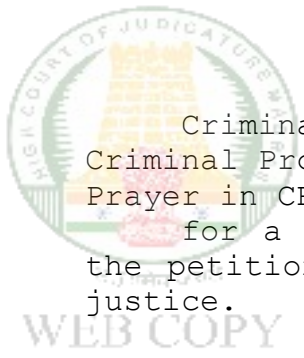
2 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT.

3 THE VICE CHAIRMAN, AGRI GOLD PROJECTS LTD.
6/680, THAKUR MANSION LANE, PUNJAGUTTA,
HYDERABED. ... RESPONDENTS in CRL OP(MD) No.5541 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI, MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
MELUR POLICE STATION,
MADURAI DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/> ... RESPONDENTS in CRL OP(MD) No.5521 of 2015



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

Prayer in CRL OP(MD) No.5514 of 2015:

for a direction, directing the respondent or his men not to harass the petitioner without following the due process of law and thus render justice.

Prayer in CRL OP(MD) No.5515 of 2015:

for a direction directing the respondent or his men not to harass the petitioner without following the due process of law and thus render justice.

Prayer in CRL OP(MD) No.5516 of 2015:

for a direction directing the respondent or his men not to harass the petitioner without following the due process of law and thus render justice.

Prayer in CRL OP(MD) No.5517 of 2015:

for a direction directing the respondent or his men not to harass the petitioner without following the due process of law and thus render justice.

Prayer in CRL OP(MD) No.5518 of 2015:

for a direction directing the respondent or his men not to harass the petitioner without following the due process of law and thus render justice.

Prayer in CRL OP(MD) No.5571 of 2015:

To issue a direction, directing the 3rd respondent not to interfere in the civil dispute of the petitioner under the pretext of the 4th respondents foisted complaint.

Prayer in CRL OP(MD) No.5552 of 2015:

To direct the respondent not to interfere with the civil dispute connected with the S.Nos.19/1, 19/2, 19/3 situated in Kuttathupatty village, Dindigul which are subject matter of O.S.No.398 of 2009 on the file of the Additional District Munsif Court, Dindigul.

Prayer in CRL OP(MD) No.5551 of 2015:

To issue a direction directing the 2nd respondent not to harass the petitioners under the guise of enquiry.

Prayer in CRL OP(MD) No.5548 of 2015:

To direct the respondent not to harass the petitioner.

Prayer in CRL OP(MD) No.5541 of 2015:

To direct the 1st and 2nd respondent not to harass the petitioner and his family members based on the complaints of the 3rd respondent and his men.

Prayer in CRL OP(MD) No.5521 of 2015:

for a direction, directing the respondents not to interfere into civil dispute in respect of S.F.No.101/14-A, and 101/14-B, of Thumbaipatti Village, Melur Taluk, Madurai district without any order from court of law.



For Petitioner/Petitioners

: Mr.N.K.Ponraj in Crl.O.P.Nod.5514 to 5518/2015
 : Mr.K.Mohamed Eirsath in Crl.O.P.No.5521/2015
 : Mr.S.Sundarapandian in Crl.O.P.No.5548/2015
 : Mr.R.M.Makeshkumaravel in Crl.O.P.No.5541/2015
 : Mr.R.Jegadeeswaranin Crl.O.P.No.5551/2015
 : Mr.N.Mohan in Crl.O.P.No.5552/2015
 : Mr.T.Leninkumar in Crl.O.P.No.5571/2015

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

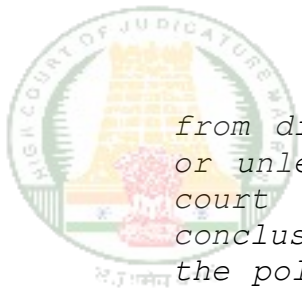
All the petitioners seek directions to the respective respondents not to harass the petitioners and their family members under the guise of enquiry.

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 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;

•(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 (Per Admn)

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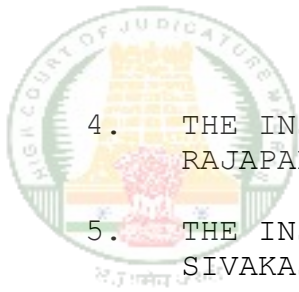
Sub Assistant Registrar

To

1. THE ADDITIONAL DISTRICT MUNSIF, DINDIGUL.

2. THE INSPECTOR OF POLICE, MARANERI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3. THE INSPECTOR OF POLICE, CHINNAMANUR POLICE STATION, THENI DISTRICT.



4. THE INSPECTOR OF POLICE, SETTUR POLICE STATION,
RAJAPALAYAM TALUK, VIRUDHUNAGAR DISTRICT.
5. THE INSPECTOR OF POLICE, ALANKULAM POLICE STATION,
SIVAKASI TALUK, VIRUDHUNAGAR DISTRICT.
6. THE SUPERINTENDENT OF POLICE, TRICHY DISTRICT, TRICHY.
7. THE SUB INSPECTOR OF POLICE,
THATHAIYANKARPETTAI POLICE STATION, TRICHY DISTRICT.
8. THE INSPECTOR OF POLICE,
ODDANCHATHIRAM POLICE STATION, DINDIGUL.
9. THE SUPERINTENDENT OF POLICE, RAMANATHAPURAM DISTRICT.
10. THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
DISTRICT POLICE OFFICE, RAMANATHAPURAM DISTRICT.
11. THE SUPERINTENDENT OF POLICE, VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.
12. THE INSPECTOR OF POLICE,
SIVAKASI EAST POLICE STATION, VIRUDHUNAGAR DISTRICT.
13. THE DIRECTOR GENERAL OF POLICE,
THE DISTRICT POLICE OFFICE, CHENNAI.
14. THE SUPERINTENDENT OF POLICE, SIVAGANGAI DISTRICT.
15. THE SUPERINTENDENT OF POLICE, MADURAI, MADURAI DISTRICT.
16. THE INSPECTOR OF POLICE, MELUR POLICE STATION, MADURAI DISTRICT.
17. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+5CCS TO MR.N.K.PONRAJ, ADVOCATE IN SR : 15237 TO 15241
+1CC TO MR.R.M.MAHESH KUMARAVEL, ADVOCATE IN SR : 15385
+1CC TO MR.T.LENIN KUMAR, ADVOCATE IN SR : 15217
+1CC TO MR.R.JEGADEESWARAN, ADVOCATE IN SR : 15316
+1CC TO MR.S.SUNDARAPANDIAN, ADVOCATE IN SR : 15518

Akv

SR : 22.04.2015 : 7p/27c

Crl.O.P.(MD)Nos.5514 to 5518, 5571, 5552,
5551, 5548, 5541 and 5521/2015 (11 cases)
26.03.2015