



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P.(MD)Nos.5586, 5589, 5602, 5606, 5623, 5624,
5634 to 5636, 5638 to 5642 of 2015

WEB COPY

SARAVANAN	... PETITIONER in CRL OP(MD) No.5586 of 2015
P. PALRAJ	... PETITIONER in CRL OP(MD) No.5589 of 2015
M. RAVI	... PETITIONER in CRL OP(MD) No.5602 of 2015
T. KARUTHAPANDI	... PETITIONER in CRL OP(MD) No.5606 of 2015
SURIYA DEVI	... PETITIONER in CRL OP(MD) No.5623 of 2015
P.RATHINABAI	... PETITIONER in CRL OP(MD) No.5624 of 2015
ALEX	... PETITIONER in CRL OP(MD) No.5634 of 2015
VALLI	... PETITIONER in CRL OP(MD) No.5635 of 2015
P.R.CHELLAMANI	... PETITIONER in CRL OP(MD) No.5636 of 2015
M.VEERAMUTHU	... PETITIONER in CRL OP(MD) No.5638 of 2015
ARJUNA MANI	... PETITIONER in CRL OP(MD) No.5639 of 2015
S. MURUGESAN	... PETITIONER in CRL OP(MD) No.5640 of 2015
D.PETCHIAMMAL	... PETITIONER in CRL OP(MD) No.5641 of 2015
M.SWAMINATHAN	... PETITIONER in CRL OP(MD) No.5642 of 2015

-VS-

- 1 THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT, TRICHY.
- 2 THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL CELL,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5586 of 2015
- 1 THE COMMISSIONER OF POLICE,
TIRUNELVELI CITY, TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TIRUNELVELI CITY,
TIRUNELVELI. ... RESPONDENTS in CRL OP(MD) No.5589 of 2015
- THE STATE REP. BY
THE SUB-INSPECTOR OF POLICE,
DEVIPATTINAM POLICE STATION,
RAMANATHAPURAM DISTRICT. ... RESPONDENT in CRL OP(MD) No.5602 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.
- 2 THE INSPECTOR OF POLICE,
USILAMPATTI TOWN POLICE STATION, USILAMPATTI,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5606 of 2015



1 THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.

2 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

WEB COPY

3 THE INSPECTOR OF POLICE,
SRIVILLIPUTHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5623 of 2015

1 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT.

2 THE INSPECTOR OF POLICE,
THIRUVATTAR POLICE STATION, THIRUVATTAR,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5624 of 2015

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT, NAGERCOIL.

2 THE INSPECTOR OF POLICE,
MANAVALAKURICHY POLICE STATION,
MANAVALAKURICHY,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5634 of 2015

1 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT, SIVAGANGAI.

2 THE INSPECTOR OF POLICE,
SOMANATHAPURAM POLICE STATION, AMARAVATHIPUDUR,
SIVAGANGAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5635 of 2015

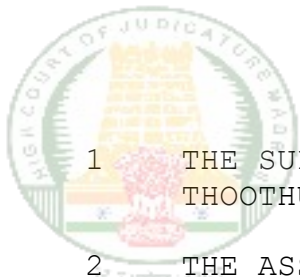
1 THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT.

2 THE INSPECTOR OF POLICE,
NATHAM POLICE STATION, DINDIGUL DISTRICT.

3 MR.ULAGANATHAN,
SERVING AS INSPECTOR OF POLICE,
NATHAM POLICE STATION,
DINDIGUL DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5636 of 2015

1 THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT, TRICHY.

2 THE INSPECTOR OF POLICE,
THIRUVARAMBUR POLICE STATION,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5638 of 2015



WEB COPY

- 1 THE SUPERINTENDENT OF POLICE,
THOOTHUKUDI DISTRICT, THOOTHUKUDI.
- 2 THE ASSISTANT SUPERINTENDENT OF POLICE,
THOOTHUKUDI DISTRICT, THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE,
THALAMUTHU NAGAR POLICE STATION, THOOTHUKUDI,
THOOTHUKUDI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5639 of 2015
- 1 THE ASSISTANT COMMISSIONER OF POLICE (LAW AND ORDER),
MADURAI CITY, MADURAI.
- 2 THE INSPECTOR OF POLICE,
AVANYAPURAM POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5640 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.
- 2 THE INSPECTOR OF POLICE,
ALANGANALLUR POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5641 of 2015
- 1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.
- 2 THE INSPECTOR OF POLICE, (LAW & ORDER)
THEEDER NAGAR POLICE STATION, THEEDER NAGAR,
MADURAI. ... RESPONDENTS in CRL OP(MD) No.5642 of 2015

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

Prayer in CRL OP(MD) No.5586 of 2015:

To direct the 2nd respondent to register the case based on complaint given by the petitioner on 27/08/2014.

Prayer in CRL OP(MD) No.5589 of 2015:

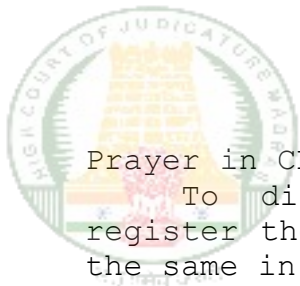
To direct the 1st respondent to instruct the 2nd respondent to register a case based on the petitioners complaint dated 02/03/2015 and investigate the same and file the final report within the period stipulated this Hon'ble Court.

Prayer in CRL OP(MD) No.5602 of 2015:

To register the FIR based on the defacto complainants complaint dated 13/03/2015 and to complete the investigation within stipulated time.

Prayer in CRL OP(MD) No.5606 of 2015:

<https://hcservices.ecourts.gov.in/hcservices/>
To direct the 2nd respondent to register a case based on the complaint given by the petitioner dated 11/12/2014 within the period stipulated by this Hon'ble court.



Prayer in CRL OP(MD) No.5623 of 2015:

To direct the respondents particularly the 3rd respondent to register the complaint of the petitioner dated 17.03.2015 and investigate the same in accordance with law and also file the final report.

Prayer in CRL OP(MD) No.5624 of 2015:

To directing the 2nd respondent to take necessary action on the petitioners complaint dated 23.01.2015 forwarded by the 1st respondent and register the case.

Prayer in CRL OP(MD) No.5634 of 2015:

To direct the 2nd respondent to register a Criminal Case against the Accused based on the complaint dated 24.02.2015 preferred by the petitioner and to recover the petitioners 8 1/2 sovergin of gold chain from the accused and to take action against the accused in accordance with law.

Prayer in CRL OP(MD) No.5635 of 2015:

To direct the 2nd respondent to register the case on the basis of the complaint given by the petitioner dated 20.03.2015.

Prayer in CRL OP(MD) No.5636 of 2015:

To direct the respondent police to register the First Information Report on the basis of the petitioners complaint dated 22.01.2015.

Prayer in CRL OP(MD) No.5638 of 2015:

To direct the 2nd respondent to register a case based on the petitioners complaint dated 20.01.2015.

Prayer in CRL OP(MD) No.5639 of 2015:

To direct the 3rd respondent herein to register an FIR on the basis of the petitioners Complaint dated 24.01.2015, lodged in person, followed by a representation dated 28.01.2015 to the 1st respondent herein.

Prayer in CRL OP(MD) No.5640 of 2015:

To direct the 2nd respondent herein to register the case on my complaint dated 25/02/2015.

Prayer in CRL OP(MD) No.5641 of 2015:

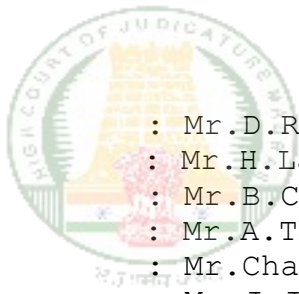
To direct the 2nd respondent to register the FIR on the basis of petitioners complaint dated on 19.03.2015.

Prayer in CRL OP(MD) No.5642 of 2015:

To direct the 2nd respondent to register the case based on the complaint given on 29.01.2015 by the petitioner.

For Petitioner/Petitioners

- : Mr.A.Joel Paul Antony in Crl.O.P.No.5586/2015
- : Mr.H.Velavadhas in Crl.O.P.No.5589/2015
- : Mr.V.Raghavachari in Crl.O.P.No.5602/2015
- : Mr.G.Radhakrishnan in Crl.O.P.No.5606/2015
- : Mr.B.Jeyakumar in Crl.O.P.No.5623/2015
- : Mr.K.Seemaraaj in Crl.O.P.No.5624/2015
- : Mr.S.Titus in Crl.O.P.No.5634/2015



: Mr.D.Rameshkumar in Crl.O.P.No.5635/2015
: Mr.H.Lakshmi Shankar in Crl.O.P.No.5636/2015
: Mr.B.Chakkaravarthi in Crl.O.P.No.5638/2015
: Mr.A.Thiruvadikumar in Crl.O.P.No.5639/2015
: Mr.Chamundi Bose in Crl.O.P.No.5640/2015
: Mr.J.Jeyakumaran in Crl.O.P.No.5641/2015
: Mr.T.Santhakumar in Crl.O.P.No.5642/2015

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 complaint:

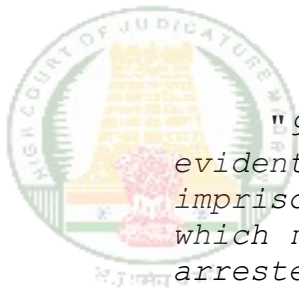
"By way of an interim order, this Court directs respondent police to peruse the complaint preferred by petitioner herein and register a case if the same informs commission of cognizable offence. In particular instances, respondent police may resort to a petition enquiry which again shall not extend beyond 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 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.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 filled 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. Accordingly, these petitions are ordered as above.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

TO

1 THE SUPERINTENDENT OF POLICE, TRICHY DISTRICT, TRICHY.

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

2

THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL CELL, TRICHY DISTRICT.



3 THE COMMISSIONER OF POLICE, TIRUNELVELI CITY, TIRUNELVELI.

4 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TIRUNELVELI CITY, TIRUNELVELI.

5 THE SUB-INSPECTOR OF POLICE,
DEVIPATTINAM POLICE STATION, RAMANATHAPURAM DISTRICT.

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USILAMPATTI TOWN POLICE STATION, USILAMPATTI, MADURAI DISTRICT.

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VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

10 THE INSPECTOR OF POLICE,
SRIVILLIPUTHUR POLICE STATION, VIRUDHUNAGAR DISTRICT.

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OFFICE OF THE SUPERINTENDENT OF POLICE, KANYAKUMARI DISTRICT.

12 THE INSPECTOR OF POLICE,
THIRUVATTAR POLICE STATION, THIRUVATTAR, KANYAKUMARI DISTRICT.

13 THE INSPECTOR OF POLICE, MANAVALAKURICHY POLICE STATION,
MANAVALAKURICHY, KANYAKUMARI DISTRICT.

14 THE SUPERINTENDENT OF POLICE, SIVAGANGAI DISTRICT, SIVAGANGAI.

15 THE INSPECTOR OF POLICE,
SOMANATHAPURAM POLICE STATION, AMARAVATHIPUDUR, SIVAGANGAI DISTRICT.

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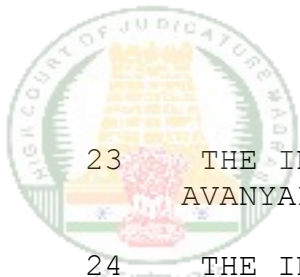
18 THE INSPECTOR OF POLICE,
THIRUVARAMBUR POLICE STATION, TRICHY DISTRICT.

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THOOTHUKUDI DISTRICT, THOOTHUKUDI.

21 THE INSPECTOR OF POLICE,
THALAMUTHU NAGAR POLICE STATION, THOOTHUKUDI,
THOOTHUKUDI DISTRICT.

22 THE ASSISTANT COMMISSIONER OF POLICE (LAW AND ORDER),
MADURAI CITY, MADURAI.



23 THE INSPECTOR OF POLICE,
AVANYAPURAM POLICE STATION, MADURAI DISTRICT.

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

25 THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI.

26 THE INSPECTOR OF POLICE, (LAW & ORDER)
THEEDER NAGAR POLICE STATION, THEEDER NAGAR, MADURAI.

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

+1CC TO MR.H.VELAVADHAS, ADVOCATE IN SR : 15682
+1CC TO MR.G.RADHA KRISHNAN, ADVOCATE IN SR : 16375
+1CC TO MR.K.SEEMARAJ, ADVOCATE IN SR : 16087
+1CC TO MR.S.TITUS, ADVOCATE IN SR : 15920
+1CC TO MR.CHAMUNDI BOSE, ADVOCATE IN SR : 15693
+1cc to MR.J.JEYAKUMARAN, ADVOCATE IN SR : 15994
+1cc to MR.H.LAKSHMI SHANKAR, ADVOCATE IN SR : 16145

Pjl/Ses

SR : 16.04.2015 : 9p/35c

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