



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.5711 to 5713, 5727, 5733, 5735 to 5740,
5750, 5759 and 5761 of 2015

M.MUTHAIAH	...	PETITIONER	in	CRL OP (MD)	No.5711	of	2015
SATHIYA	...	PETITIONER	in	CRL OP (MD)	No.5712	of	2015
M.RAJAPPA	...	PETITIONER	in	CRL OP (MD)	No.5713	of	2015
SELVAM	...	PETITIONER	in	CRL OP (MD)	No.5727	of	2015
K.PECHIAMMAL	...	PETITIONER	in	CRL OP (MD)	No.5733	of	2015
N.SANKARAMMAL	...	PETITIONER	in	CRL OP (MD)	No.5735	of	2015
P.MEENAKSHI	...	PETITIONER	in	CRL OP (MD)	No.5736	of	2015
V. SATHIYA	...	PETITIONER	in	CRL OP (MD)	No.5737	of	2015
M.SARAVANAN	...	PETITIONER	in	CRL OP (MD)	No.5738	of	2015
S.VIJAYAKUMAR	...	PETITIONER	in	CRL OP (MD)	No.5739	of	2015
SHAKIRA	...	PETITIONER	in	CRL OP (MD)	No.5740	of	2015
MARY MERLIN MEJI	...	PETITIONER	in	CRL OP (MD)	No.5750	of	2015
A. RAMAKRISHNAN	...	PETITIONER	in	CRL OP (MD)	No.5759	of	2015
CHANDRASEKARAN PILLAI	...	PETITIONER	in	CRL OP (MD)	No.5761	of	2015

-VS-

1 THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.

2 THE INSPECTOR OF POLICE
OTTANCHATHIRAM POLICE STATION,
DINDIGUL DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5711 of 2015

1 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT, SIVAGANGAI.

2 THE INSPECTOR OF POLICE,
TOWN POLICE STATION, DEVAKOTTAI,
SIVAGANGAI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5712 of 2015

1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI.

2 THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5713 of 2015

1 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
KARAIKUDI SUB DIVISION, KARAIKUDI.

3 THE INSPECTOR OF POLICE,
<https://hcservices.ecourts.gov.in/hcservices/>
KARAIKUDI NORTH POLICE STATION,
KARAIKUDI. ... RESPONDENTS in CRL OP (MD) No.5727 of 2015



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1 THE SUPERINTENDENT OF POLICE,
THOOTHUKUDI DISTRICT, THOOTHUKUDI.

2 THE INSPECTOR OF POLICE,
KULASEKARAPATTINAM POLICE STATION,
KULASEKARAPATTINAM,
THOOTHUKUDI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5733 of 2015

1 THE COMMISSIONER OF POLICE, MADURAI CITY.

2 THE INSPECTOR OF POLICE,
THALLAKULAM POLICE STATION,
MADURAI. ... RESPONDENTS in CRL OP(MD) No.5735 of 2015

THE INSPECTOR OF POLICE,
B-6 JAIHINDPURAM POLICE STATION,
MADURAI. ... RESPONDENT in CRL OP(MD) No.5736 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUMANGALAM
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5737 of 2015

1 THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT, TRICHY.

2 THE INSPECTOR OF POLICE,
THUVARANKURICHI POLICE STATION,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5738 of 2015

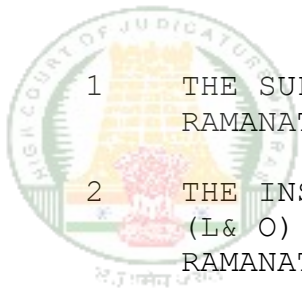
1 THE SUPERINTENDENT OF POLICE,
NAGERCOIL, KANYAKUMARI DIST.

2 THE INSPECTOR OF POLICE,
NESAMANI POLICE STATION, NAGERCOIL
KANYAKUMARI DIST. ... RESPONDENTS in CRL OP(MD) No.5739 of 2015

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TRICHY. ... RESPONDENT in CRL OP(MD) No.5740 of 2015

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT.

2 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, NAGERCOIL
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5750 of 2015



1 THE SUPERINTENDENT OF POLICE,
RAMANATHAPURAM DISTRICT.

2 THE INSPECTOR OF POLICE,
(L& O) PARTHIBANUR POLICE STATION,
RAMANATHAPURAM DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5759 of 2015

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

2 THE SUB INSPECTOR OF POLICE,
TALUK POLICE STATION,
THANJAVUR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5761 of 2015

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

Prayer in CRL OP(MD) No.5711 of 2015:

To direct the respondents to register a case on the basis of the complaint dated 10.02.2015 given by the petitioner.

Prayer in CRL OP(MD) No.5712 of 2015:

To direct the respondents to register the case on the basis of the complaint given by the petitioner dated 09.02.2015.

Prayer in CRL OP(MD) No.5713 of 2015:

To direct the 2nd respondent to register the FIR on the basis of petitioners complaint dated on 29.12.2014.

Prayer in CRL OP(MD) No.5727 of 2015:

To direct the 3rd respondent to register the case based on the complaint given by the petitioner dated 10.03.2015 against the culprits.

Prayer in CRL OP(MD) No.5733 of 2015:

To direction to the 2nd respondent to register the FIR forthwith based on the petitioners complaints dated 13.02.2015.

Prayer in CRL OP(MD) No.5735 of 2015:

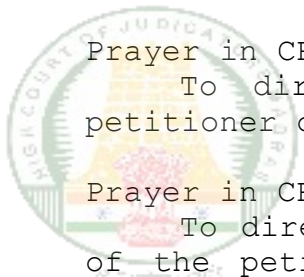
To direct the 2nd respondent to register a case for the complaint given by the petitioner on 09.03.2015.

Prayer in CRL OP(MD) No.5736 of 2015:

To direct the respondent herein to register a case based on the complaint lodged on 2.9.2014 within the stipulated time as fixed by this Honorable Court investigate the matter and deal with the accused person in accordance with law.

Prayer in CRL OP(MD) No.5737 of 2015:

To direct the 2nd respondent to register the petitioners complaint dated 17/03/2015 in C.S.R.NO.93/2015 on the file of 2nd respondent Police and to investigate the same in accordance with law.



Prayer in CRL OP(MD) No.5738 of 2015:

To direct the 2nd respondent to register the complaint of the petitioner dated 25/04/2014 and investigate the same as per law.

Prayer in CRL OP(MD) No.5739 of 2015:

To directing the 2nd respondent to register a case on the complaint of the petitioner dated 24.02.2015 on the file of the 2nd respondent herein consequently directing the respondent to investigate to file a final report within a stipulated time as fixed by this Hon'ble Court.

Prayer in CRL OP(MD) No.5740 of 2015:

To direct the respondent to register petitioners complaint dated 29.08.2014 and take necessary action in accordance with law.

Prayer in CRL OP(MD) No.5750 of 2015:

To register a case on the complaint of the petitioner dated 14/03/2015 and investigate the same in accordance with law.

Prayer in CRL OP(MD) No.5759 of 2015:

To direct the respondents to register a case based on complaint given by the petitioner on 08/09/2014.

Prayer in CRL OP(MD) No.5761 of 2015:

To direct the 2nd respondent to register a case against the accused on the complaint dated 14.03.2015.

For Petitioner/Petitioners

- : Mr.G.Ramanathan in Crl.O.P.No.5711/2015
- : Mr.M.Asaithambi in Crl.O.P.No.5712/2015
- : Mr.J.Jeyakumaran in Crl.O.P.No.5713/2015
- : Mr.RM.Arun Swaminathan in Crl.O.P.No.5727/2015
- : Mr.S.Balamurugan in Crl.O.P.No.5733/2015
- : Mr.P.Ganesh Kumar in Crl.O.P.No.5735/2015
- : Mr.K.Gnana Sambandan in Crl.O.P.No.5736/2015
- : Mr.R.Prabu Ramachandran in Crl.O.P.No.5737/2015
- : Mr.AN.Ramanathan in Crl.O.P.No.5738/2015
- : Mr.S.Suresh Kumar in Crl.O.P.No.5739/2015
- : Ms.T.Banumathi in Crl.O.P.No.5740/2015
- : Mr.A.Rajkumar Sen in Crl.O.P.No.5750/2015
- : Mr.M.Ramu in Crl.O.P.No.5759/2015
- : Mr.V.Selva in Crl.O.P.No.5761/2015

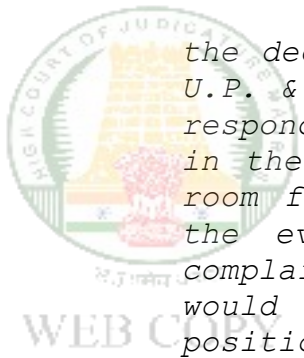
For Respondents in all Crl.O.Ps.

: 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 (Cr1) (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.

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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.

4. Accordingly, these petitions are ordered as above.

Sd/-

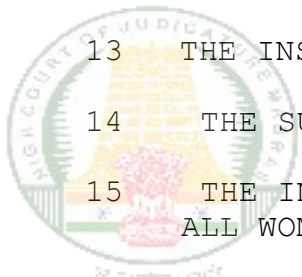
Assistant Registrar (Per Admn)

/True copy/

Sub Assistant Registrar

TO

- 1 THE SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE
OTTANCHATHIRAM POLICE STATION, DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT OF POLICE, SIVAGANGAI DISTRICT, SIVAGANGAI.
- 4 THE INSPECTOR OF POLICE,
TOWN POLICE STATION, DEVAKOTTAI, SIVAGANGAI DISTRICT.
- 5 THE SUPERINTENDENT OF POLICE, TIRUNELVELI DISTRICT, TIRUNELVELI.
- 6 THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION, TIRUNELVELI DISTRICT.
- 7 THE DEPUTY SUPERINTENDENT OF POLICE,
KARAIKUDI SUB DIVISION, KARAIKUDI.
- 8 THE INSPECTOR OF POLICE,
KARAIKUDI NORTH POLICE STATION, KARAIKUDI.
- 9 THE SUPERINTENDENT OF POLICE, THOOTHUKUDI DISTRICT, THOOTHUKUDI.
- 10 THE INSPECTOR OF POLICE,
KULASEKARAPATTINAM POLICE STATION,
KULASEKARAPATTINAM, THOOTHUKUDI DISTRICT.
- 11 THE COMMISSIONER OF POLICE, MADURAI CITY.



- 13 THE INSPECTOR OF POLICE, B-6 JAIHINDPURAM POLICE STATION, MADURAI.
- 14 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT, MADURAI.
- 15 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUMANGALAM, MADURAI DISTRICT.
- 16 THE SUPERINTENDENT OF POLICE, TRICHY DISTRICT, TRICHY.
- 17 THE INSPECTOR OF POLICE,
THUVARANKURICHI POLICE STATION, TRICHY DISTRICT.
- 18 THE SUPERINTENDENT OF POLICE, NAGERCOIL, KANYAKUMARI DIST.
- 19 THE INSPECTOR OF POLICE,
NESAMANI POLICE STATION, NAGERCOIL, KANYAKUMARI DIST.
- 20 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, TRICHY.
- 21 THE SUPERINTENDENT OF POLICE, KANYAKUMARI DISTRICT.
- 22 THE INSPECTOR OF POLICE,
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- 23 THE SUPERINTENDENT OF POLICE, RAMANATHAPURAM DISTRICT.
- 24 THE INSPECTOR OF POLICE,
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- 25 THE SUPERINTENDENT OF POLICE,
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- 26 THE SUB INSPECTOR OF POLICE,
TALUK POLICE STATION, THANJAVUR DISTRICT.
- 27 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC TO MR.G.RAMANATHAN, ADVOCATE IN SR : 15863
+1CC TO MR.ARUN @ SWAMINATHAN, ADVOCATE IN SR : 15734
+1CC TO MR.K.GNANASAMBANDAN, ADVOCATE IN SR : 15651
+1CC TO MR.V.SELVA, ADVOCATE IN SR : 16335
+1CC TO MR.M.ASAITHAMBI, ADVOCATE IN SR : 15763
+1cc to M/S.BANUMATHY, Advocate in SR.No.15530

Pjl/Ses

SR : 13.04.2015 : 8p/34c

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30.03.2015