



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

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Cr1.O.P. (MD) Nos.5762, 5768, 5771, 5793, 5794, 5795,
5801, 5806, 5879 and 2436 of 2015

N.MOHAMED MEERAN PILLAI ... PETITIONER IN CRL OP(MD) NO.5762 OF 2015
S.PAPPAMMAL ... PETITIONER IN CRL OP(MD) NO.5768 OF 2015
R.MOORTHY ... PETITIONER IN CRL OP(MD) NO.5771 OF 2015
V.PANDI ... PETITIONER IN CRL OP(MD) NO.5793 OF 2015
PAUL AROCKIARAJ ... PETITIONER IN CRL OP(MD) NO.5794 OF 2015
R.PANCHAVARNAM ... PETITIONER IN CRL OP(MD) NO.5795 OF 2015
U.MALIK @ SHEIK IBRAHIM ALI ... PETITIONER IN CRL OP(MD) NO.5801 OF 2015
E.THANGAMANI ... PETITIONER IN CRL OP(MD) NO.5806 OF 2015

M/S.EBROS

REP BY ITS PARTNER

VIDHYA SRINIVASAN, MADURAI-07.... PETITIONER IN CRL OP(MD) NO.5879 OF 2015

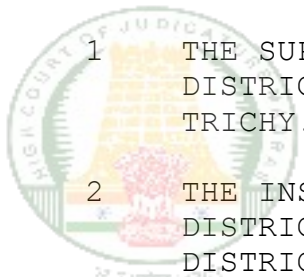
M.LAKHSMI ... PETITIONER IN CRL OP(MD) NO.2436 OF 2015

-VS-

- 1 THE SUPERINTENDENT OF POLICE
KANYAKUMARI DIST AT NAGERCOIL.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION NAGERCOIL
KANYAKUMARI DIST. ... RESPONDENTS IN CRL OP(MD) NO.5762 OF 2015
- 1 THE INSPECTOR OF POLICE,
S.S.COLONY POLICE STATION,
S.S.COLONY MADURAI.
- 2 THE COMMISSIONER OF POLICE
MADURAI CITY MADURAI. ... RESPONDENTS IN CRL OP(MD) NO.5768 OF 2015
- 1 THE COMMISSIONER OF POLICE
MADURAI CITY MADURAI.
- 2 THE INSPECTOR OF POLICE
S.S.COLONY POLICE STATION S.S.COLONY
MADURAI DIST. ... RESPONDENTS IN CRL OP(MD) NO.5771 OF 2015

THE INSPECTOR OF POLICE,
THIRUNAGAR POLICE STATION,
MADURAI DISTRICT.

... RESPONDENT IN CRL OP(MD) NO.5793 OF 2015



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- 1 THE SUPERINTENDENT OF POLICE
DISTRICT POLICE OFFICE SUBRAMANIAPURAM
TRICHY.
- 2 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
DISTRICT POLICE OFFICE, SUBRAMANIAPURAM,
TRICHY. ... RESPONDENTS IN CRL OP(MD) NO.5794 OF 2015

- 1 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, VADAMADURAI,
DINDIGUL DISTRICT. ... RESPONDENTS IN CRL OP(MD) NO.5795 OF 2015

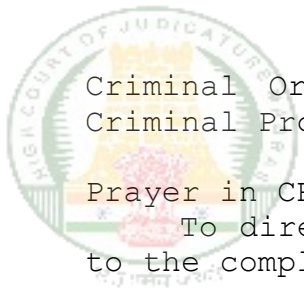
- 1 THE COMMISSIONER OF POLICE,
MADURAI CITY.
- 2 THE ASSISTANT COMMISSIONER OF
POLICE(LAW & ORDER) MADURAI TOWN,
MADURAI CITY.
- 3 THE INSPECTOR OF POLICE,
(L & O) B-5 SOUTH GATE POLICE STATION,
MADURAI CITY. ... RESPONDENTS IN CRL OP(MD) NO.5801 OF 2015

- 1 THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT.
- 3 THE INSPECTOR OF POLICE,
DINDIGUL TOWN POLICE STATION, DINDIGUL.
- 4 THE INSPECTOR OF POLICE,
SINNALAPATTI POLICE STATION, SINNALAPATTI
DINDIGUL DISTRICT. ... RESPONDENTS IN CRL OP(MD) NO.5806 OF 2015

- 1 THE COMMISSIONER OF POLICE, MADURAI.
- 2 THE INSPECTOR OF POLICE(CRIME),
D1, TALLAKULAM POLICE STATION,
MADURAI. ... RESPONDENTS IN CRL OP(MD) NO.5879 OF 2015

- 1 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT.

- 2 THE INSPECTOR OF POLICE,
KARUPPAYOORANI POLICE STATION, KARUPPAYOORANI,
MADURAI DISTRICT. ... RESPONDENTS IN CRL OP(MD) NO.2436 OF 2015



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

Prayer in CRL OP(MD) No.5762 of 2015:

To direct the 2nd respondent police to register the case in pursuant to the complaint by the petitioner in CSR No. 124/2015 dated 16.03.2015.

Prayer in CRL OP(MD) No.5768 of 2015:

To direct the 1st respondent to register the complaint of the petitioner dated 24.03.2015 within the stipulated time limit in the nature and circumstances of the case and in the interest of justice.

Prayer in CRL OP(MD) No.5771 of 2015:

To pass an order of direction by directing the 2nd respondent to register the petitioners complaint dated 18.02.2015 and to investigate the matter in accordance with law.

Prayer in CRL OP(MD) No.5793 of 2015:

To direct the respondent to register the case on the complaint of the petitioner dated 11.03.2015.

Prayer in CRL OP(MD) No.5794 of 2015:

To direct the 2nd respondent to register a case on the complaint given by the petitioner dated 20.12.2011 to the 1st respondent and to conduct a proper and speedy investigation according to law within a specified time frame.

Prayer in CRL OP(MD) No.5795 of 2015:

To direct the 2nd respondent to register the case on the petitioners complaint dated 24.03.2015 and proceed with the same as per law.

Prayer in CRL OP(MD) No.5801 of 2015:

To direct the Inspector of Police, B5 south Gate Police Station, Madurai city, the 3rd respondent herein, to register the petitioners complaint dated 03.03.2015 as an FIR within the stipulated period as prescribed by this Hon'ble Court.

Prayer in CRL OP(MD) No.5806 of 2015:

To pass an order directing the respondents particularly the 2nd respondent to register the case against the accused persons namely Nagarajan S/o.Ramdoss Naidu based on the complaint of the petitioner dated 03.02.2015 and investigate the same.

Prayer in CRL OP(MD) No.5879 of 2015:

To direct the First respondent to register the petitioners complaint dated 17.01.2015 and file a status report before this Hon'ble Court.

Prayer in CRL OP(MD) No.2436 of 2015:

To direct the 2nd respondent to register a case against the accused on the complaint dated 30.01.2015.

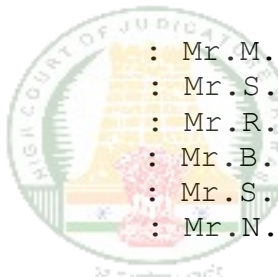
For Petitioner/Petitioners

: Mr.R.Maheswaran in Crl.O.P.No.5762/2015

: Mr.P.E.Pandiarajan in Crl.O.P.No.5768/2015

: Mr.P.Santhana Krishnan in Crl.O.P.No.5771/2015

: Mr.M.Alagappan in Crl.O.P.No.5793/2015



: Mr.M.Ramasubramanian in Crl.O.P.No.5794/2015
: Mr.S.Karthick in Crl.O.P.No.5795/2015
: Mr.R.Anand in Crl.O.P.No.5801/2015
: Mr.B.Prahalad Ravi in Crl.O.P.No.5806/2015
: Mr.S.Karthikei Balan in Crl.O.P.No.5879/2015
: Mr.N.Anandakumar in Crl.O.P.No.2436/2015

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.

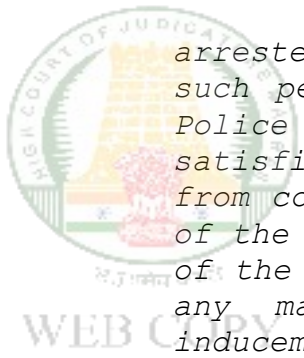
Post after two weeks."

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 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;



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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. Accordingly, these petitions are ordered as above.

Sd/-
Assistant Registrar (AE)

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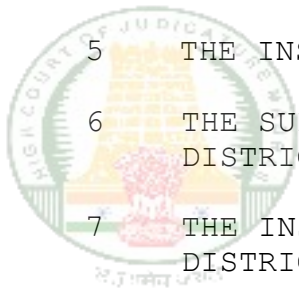
Sub Assistant Registrar

TO

1 THE SUPERINTENDENT OF POLICE, KANYAKUMARI DIST AT NAGERCOIL.

2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
NAGERCOIL, KANYAKUMARI DIST.

3 THE INSPECTOR OF POLICE,
S.S.COLONY POLICE STATION, S.S.COLONY MADURAI.



- 5 THE INSPECTOR OF POLICE, THIRUNAGAR POLICE STATION, MADURAI DISTRICT
- 6 THE SUPERINTENDENT OF POLICE
DISTRICT POLICE OFFICE, SUBRAMANIAPURAM, TRICHY.
- 7 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
DISTRICT POLICE OFFICE, SUBRAMANIAPURAM, TRICHY.
- 8 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT.
- 9 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, VADAMADURAI, DINDIGUL DISTRICT.
- 10 THE ASSISTANT COMMISSIONER OF POLICE (LAW & ORDER)
MADURAI TOWN, MADURAI CITY.
- 11 THE INSPECTOR OF POLICE,
(L & O) B-5 SOUTH GATE POLICE STATION, MADURAI CITY.
- 12 THE DEPUTY SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT.
- 13 THE INSPECTOR OF POLICE, DINDIGUL TOWN POLICE STATION, DINDIGUL.
- 14 THE INSPECTOR OF POLICE,
SINNALAPATTI POLICE STATION, SINNALAPATTI, DINDIGUL DISTRICT.
- 15 THE INSPECTOR OF POLICE (CRIME),
D1, TALLAKULAM POLICE STATION, MADURAI.
- 16 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT.
- 17 THE INSPECTOR OF POLICE,
KARUPPAYOORANI POLICE STATION, KARUPPAYOORANI, MADURAI DISTRICT.
- 18 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to MR.R.RAMASUBRAMANIAN, ADVOCATE IN SR : 15756
+1cc to MR.N.ANANDA KUMAR, ADVOCATE IN SR : 16332
+1cc to MR.M.ALAGAPPAN, ADVOCATE IN SR : 15858
+1cc to MR.S.KARTHIKEI BALAN, ADVOCATE IN SR : 15708

Pjl/Ses

SR : 13.04.2015 : 7p/24c

Cr1.O.P. (MD) Nos.5762,5768,5771,5793,5794,5795,
5801,5806,5879 and 2436 of 2015
30.03.2015