



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.03.2015
CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

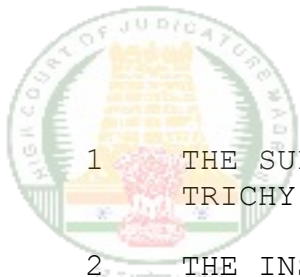
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Cr1.O.P. (MD) Nos.5813,5815,5816,5817,5824,5827,5829,
5831,5832,5839,5843,5844,5848,5851 and 5853 of 2015

S.SUBRAMANIAN	...	PETITIONER in CRL OP (MD) No.5813 of 2015
G.PACKIYASELVI	...	PETITIONER in CRL OP (MD) No.5815 of 2015
M.JAMAL MOHAMMED	...	PETITIONER in CRL OP (MD) No.5816 of 2015
S.THIRAVIYAM	...	PETITIONER in CRL OP (MD) No.5817 of 2015
RATHINAM	...	PETITIONER in CRL OP (MD) No.5824 of 2015
P.MUTHUSAMY	...	PETITIONER in CRL OP (MD) No.5827 of 2015
P.S.CHANDRASEKARA RAJA	...	PETITIONER in CRL OP (MD) No.5829 of 2015
R.VADAMALAIYAN	...	PETITIONER in CRL OP (MD) No.5831 of 2015
A.ANBARASI	...	PETITIONER in CRL OP (MD) No.5832 of 2015
R.MEENAL	...	PETITIONER in CRL OP (MD) No.5839 of 2015
P.AKILA	...	PETITIONER in CRL OP (MD) No.5843 of 2015
1 S.JANATHA		
2 A.JEYA		
3 G.ROSLIN		
4 J.RANI		
5 MARY		
6 PONMANI		
7 D.MARAGATHAM		
8 K.SELVI		
9 P.SUNDARAM		
10 T.EMI PREMA		
11 T.GUNASEELI		
12 J.MALLIGA	...	PETITIONER in CRL OP (MD) No.5844 of 2015
S.A.BASKARAN	...	PETITIONER in CRL OP (MD) No.5848 of 2015
NARPETH SINGH	...	PETITIONER in CRL OP (MD) No.5851 of 2015
C.PARTHASARATHY	...	PETITIONER in CRL OP (MD) No.5853 of 2015

-VS-

1	THE SUPERINTENDENT OF POLICE TIRUNELVELI TIRUNELVELI DIST.	
2	THE DEPUTY SUPERINTENDENT OF POLICE ALANGULAM TIRUNELVELI DIST.	
3	THE INSPECTOR OF POLICE SURANDAI POLICE STATION TIRUNELVELI DIST.	... RESPONDENT(s) in CRL OP (MD) No.5813 of 2015
1	THE SUPERINTENDENT OF POLICE TIRUNELVELI TIRUNELVELI DIST.	
2	THE DEPUTY SUPERINTENDENT OF POLICE ALANGULAM TIRUNELVELI DIST.	
3	THE INSPECTOR OF POLICE SURANDAI POLICE STATION TIRUNELVELI DIST.	... RESPONDENT(s) in CRL OP (MD) No.5815 of 2015



1 THE SUPERINTENDENT OF POLICE
TRICHY TRICHY DIST.

2 THE INSPECTOR OF POLICE
THUVARANKURUCHI POLICE STATION TRICHY DIST.

... RESPONDENT(s) in CRL OP(MD) No.5816 of 2015

1 THE SUPERINTENDENT OF POLICE
TUTICORIN DIST TUTICORIN.

2 THE INSPECTOR OF POLICE
SATHANKULAM POLICE STATION TUTICORIN DIST.

... RESPONDENT(s) in CRL OP(MD) No.5817 of 2015

1 THE SUPERINTENDENT OF POLICE
THENI DIST THENI

2 THE INSPECTOR OF POLICE
DEVATHANAPATTI POLICE STATION
DEVATHANAPATTI THENI DIST.

... RESPONDENT(s) in CRL OP(MD) No.5824 of 2015

1 THE SUPERINTENDENT OF POLICE
THENI DISTRICT.

2 THE INSPECTOR OF POLICE
RAJATHANI POLICE STATION THENI DISTRICT.

... RESPONDENT(s) in CRL OP(MD) No.5827 of 2015

1 THE SUPERINTENDENT OF POLICE
TIRUNELVELI DIST TIRUNELVELI.

2 THE INSPECTOR OF POLICE
SANKARANKOVIL TOWN POLICE STATION
SANKARANKOVIL TIRUNELVELI DIST.

... RESPONDENT(s) in CRL OP(MD) No.5829 of 2015

1 THE SUPERINTENDENT OF POLICE
THENI DIST.

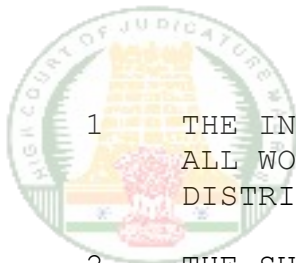
2 THE SUB INSPECTOR OF POLICE
PALANICHETTIPATTI POLICE STATION THENI DIST.

... RESPONDENT(s) in CRL OP(MD) No.5831 of 2015

1 THE SUPERINTENDENT OF POLICE
DINDIGUL.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION OTTANCHATHIRAM
DINDIGUL DIST.

... RESPONDENT(s) in CRL OP(MD) No.5832 of 2015



1 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION MELUR MADURAI
DISTRICT.

2 THE SUPERINTENDENT OF POLICE
MADURAI DISTRICT.

... RESPONDENT(s) in CRL OP(MD) No.5839 of 2015

1 THE SUPERINTENDENT OF POLICE
TRICHY DISTRICT TRICHY.

2 THE DEPUTY SUPERINTENDENT OF
POLICE LALGUDI TRICHY.

3 THE INSPECTOR OF POLICE
LALGUDI POLICE STATION LALGUDI TRICHY
DISTRICT.

... RESPONDENT(s) in CRL OP(MD) No.5843 of 2015

1 THE SUPERINTENDENT OF POLICE
THOOTHUKUDI DIST THOOTHUKUDI.

2 THE INSPECTOR OF POLICE
TIRUCHENDUR POLICE STATION TIRUCHENDUR
THOOTHUKUDI DIST.

... RESPONDENT(s) in CRL OP(MD) No.5844 of 2015

1 THE COMMISSIONER OF POLICE
MADURAI CITY MADURAI.

2 THE INSPECTOR OF POLICE
CITY CRIME BRANCH MADURAI.

... RESPONDENT(s) in CRL OP(MD) No.5848 of 2015

1 THE COMMISSIONER OF POLICE
C.O.P.OFFICE MANNARPURAM TRICHY DT.

2 THE INSPECTOR OF POLICE
GANDHI MARKET POLICE STATION GANDHI MARKET
TRICHY TRICHY DISTRICT.

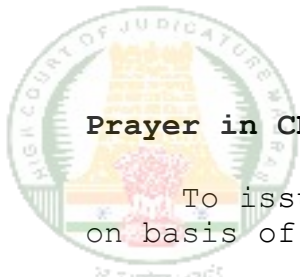
... RESPONDENT(s) in CRL OP(MD) No.5851 of 2015

1 THE SUPERINTENDENT OF POLICE
TRICHY DISTRICT TRICHY.

2 THE DEPUTY SUPERINTENDENT
OF POLICE LALGUDI TRICHY.

3 THE INSPECTOR OF POLICE
LALGUDI POLICE STATION LALGUDI TRICHY
DISTRICT.

... RESPONDENT(s) in CRL OP(MD) No.5853 of 2015

**Prayer in CRL OP(MD) No.5813 of 2015:**

To issue a direction, directing the respondents to register the FIR on basis of the complaint of the petitioner dated 18.03.2015.

Prayer in CRL OP(MD) No.5815 of 2015:

To issue a direction, directing the respondents to register the FIR on basis of the complaint of the petitioner dated 18.03.2015.

Prayer in CRL OP(MD) No.5816 of 2015:

To direct the 1st respondent to directing the 2nd respondent to register the case and to take suitable action on the basis of the petitioners complaint dated 22.01.2014, within a period of stipulated time.

Prayer in CRL OP(MD) No.5817 of 2015:

To direct the 2nd respondent to register a case based on the petitioners complaint dated 22.02.2015.

Prayer in CRL OP(MD) No.5824 of 2015:

To direct the 2nd respondent herein to register a case based on the petitioners complaint dated 09.12.2014 and to investigate the same.

Prayer in CRL OP(MD) No.5827 of 2015:

To direct the 2nd respondent herein to register the complaint of the petitioner dated 26.2.2015 investigate into the case in accordance with law and file final report within a reasonable time.

Prayer in CRL OP(MD) No.5829 of 2015:

To direct the 2nd respondent to register a case on the complaint of the petitioner dated 19.03.2015.

Prayer in CRL OP(MD) No.5831 of 2015:

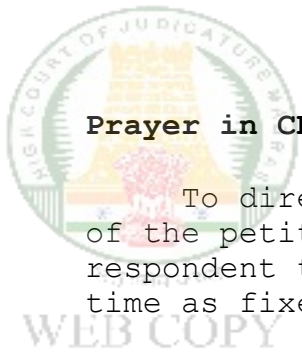
To direct the 2nd respondent herein to register the complaint of the petitioner dated 09.02.2015, investigate into the case in accordance with law and file final report within a reasonable time.

Prayer in CRL OP(MD) No.5832 of 2015:

To pass an order of direction directing the 2nd respondent to register an FIR based on the petitioners complaint dated 24.02.2015 and investigate the same in accordance with law.

Prayer in CRL OP(MD) No.5839 of 2015:

To direct the 1st respondent to register the case on the complaint given by the petitioner on 21.01.2015 and to investigate the matter within the time stipulated by this Honourable Court.

**Prayer in CRL OP(MD) No.5843 of 2015:**

To directing the 3rd respondent to register a case on the complaint of the petitioner dated 23.03.2015 and consequently directing the 3rd respondent to investigate to file a final report within a stipulated time as fixed by this Honourable Court.

Prayer in CRL OP(MD) No.5844 of 2015:

To direct the 2nd respondent to register the case on the petitioners complaint dated 29.01.2015 and proceed with the same.

Prayer in CRL OP(MD) No.5848 of 2015:

To directing the respondents to register the FIR on basis of the complaint of the petitionoer dated 24.03.2015.

Prayer in CRL OP(MD) No.5851 of 2015:

To directing the 2nd respondent herein to register a case on petitioners complaint dated 20.3.2015 enquire the same file a report before the court concerned.

Prayer in CRL OP(MD) No.5853 of 2015:

To directing the 3rd respondent to register a case on the complaint of the petitioner dated 23.03.2015 and consequently directing the 3rd respondent to investigate to file a final report within a stipulated time as fixed by this Honourable Court.

M/S.S.BASKAR MATHURAM	...	for PETITIONER in CRL OP(MD) No.5813 of 2015
M/S.S.BASKAR MATHURAM	...	for PETITIONER in CRL OP(MD) No.5815 of 2015
M/S.S.MUTHALRAJ	...	for PETITIONER in CRL OP(MD) No.5816 of 2015
M/S.S.C.HEROLD SINGH	...	for PETITIONER in CRL OP(MD) No.5817 of 2015
M/S.T.SELVAKUMARAN	...	for PETITIONER in CRL OP(MD) No.5824 of 2015
M/S.K.APPADURAI	...	for PETITIONER in CRL OP(MD) No.5827 of 2015
M/S.T.SELVAN	...	for PETITIONER in CRL OP(MD) No.5829 of 2015
M/S.K.APPADURAI	...	for PETITIONER in CRL OP(MD) No.5831 of 2015
M/S.M.SARAVANAN	...	for PETITIONER in CRL OP(MD) No.5832 of 2015
M/S.P.SESUBALAN RAJA	...	for PETITIONER in CRL OP(MD) No.5839 of 2015
M/S.R.YAMUNA	...	for PETITIONER in CRL OP(MD) No.5843 of 2015
M/S.V.RAJIV RUFUS	...	for PETITIONER in CRL OP(MD) No.5844 of 2015
M/S.M.S.SARAVANA KUMAR	...	for PETITIONER in CRL OP(MD) No.5848 of 2015
M/S.R.SUNDAR	...	for PETITIONER in CRL OP(MD) No.5851 of 2015
M/S.R.YAMUNA	...	for PETITIONER in CRL OP(MD) No.5853 of 2015

Counsel for Respondent : Mr.K.V.Rajarajan
Government Advocate(Crl.Side)
in all Crl.op's

C O M M O N O R D E R

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

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.

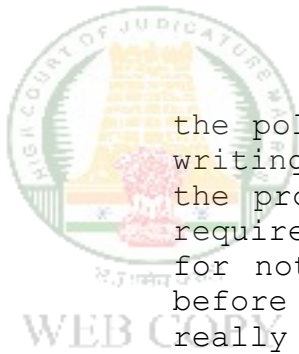
Post after two weeks."

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.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 (CO)

/True copy/

Sub Assistant Registrar

TO

1. THE SUPERINTENDENT OF POLICE, TIRUNELVELI, TIRUNELVELI DIST.
2. THE DEPUTY SUPERINTENDENT OF POLICE, ALANGULAM, TIRUNELVELI DIST.
3. THE INSPECTOR OF POLICE, SURANDAI POLICE STATION, TIRUNELVELI DIST.
4. THE SUPERINTENDENT OF POLICE, TRICHY, TRICHY DISTRICT
5. THE INSPECTOR OF POLICE, THUVARANKURUCHI POLICE STATION, TRICHY DIST
6. THE SUPERINTENDENT OF POLICE, TUTICORIN DIST, TUTICORIN
7. THE INSPECTOR OF POLICE, SATHANKULAM POLICE STATION, TUTICORIN
8. THE SUPERINTENDENT OF POLICE, THENI DIST, THENI
9. THE INSPECTOR OF POLICE, DEVATHANAPATTI POLICE STATION, DEVATHANAPATTI, THENI DIST
10. THE INSPECTOR OF POLICE, RAJATHANI POLICE STATION, THENI DIST
11. THE INSPECTOR OF POLICE, SANKARANKOVIL TOWN POLICE STATION, SANKARANKOVIL, TIRUNELVELI DIST
12. THE SUB INSPECTOR OF POLICE, PLANICHETTIPATTI POLICE STATION, THENI DIST.



13. THE SUPERINTENDENT OF POLICE, DINDIGUL

14. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, OTTANCHATHIRAM,
DINDIGUL DIST

15. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, MELUR,
MADURAI DISTRICT.

16. THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT

17. THE DEPUTY SUPERINTENDENT OF POLICE, LALGUDI, TRICHY

18. THE INSPECTOR OF POLICE, LALGUDI POLICE STATION, LALGUDI, TRICHY DIST

19. THE INSPECTOR OF POLICE, TIRUCHENDUR POLICE STATION, TIRUCHENDUR,
THOOTHUKUDI DIST

20. THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI

21. THE INSPECTOR OF POLICE, CITY CRIME BRANCH, MADURAI

22. THE COMMISSIONER OF POLICE, C.O.P. OFFICE, MANNAPPURAM, TRICHY DIST

23. THE INSPECTOR OF POLICE, GANDHI MARKET POLICE STATION, GANDHI MARKET,
TRICHY, TRICHY DISTRICT.

24. THE DEPUTY SUPERINTENDENT OF POLICE, LALGUDI, TRICHY

25. THE INSPECTOR OF POLICE, LALGUDI POLICE STATION, LALGUDI, TRICHY DIST

26. THE ADDL. PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+2cc to M/s. S. Baskar Mathuram, Advocate in SR.No.16305&16304

+1cc to M/s. Na. Palaniyandi, Advocate in SR.No.16107

+1cc to Mr. S. C. Herold Singh, Advocate in SR.No.15861

+1cc to Mr. T. Selvan, Advocate in SR.No.16020

+1cc to M/s. V. Rajiv Rufus, Advocate in SR.No.16084

+1cc to M/s. P. Sesubalan Raja, Advocate in SR.No.16856

+1cc to M/s. M. S. Saravanakumar, Advocate in SR.No.16689

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