



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P. (MD) Nos.5825,5845,5866,5874,5877,
5885,5890,5902 and 5905 of 2015

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MR.V.HARI GNANAM ... PETITIONER in CRL OP(MD) No.5825 of 2015
P.BOOMINATHA THEVAR ... PETITIONER in CRL OP(MD) No.5845 of 2015

1 K.KANDASAMY
2 K.RAJALAKSHMI ... PETITIONERS in CRL OP(MD) No.5866 of 2015

P.MUTHUTHEVAR ... PETITIONER in CRL OP(MD) No.5874 of 2015

1 B.MUTHU
2 M.MANI ... PETITIONERS in CRL OP(MD) No.5877 of 2015

MARIMUTHU ... PETITIONER in CRL OP(MD) No.5885 of 2015
A.PACKIYASAMY ... PETITIONER in CRL OP(MD) No.5890 of 2015
K.PANDI ... PETITIONER in CRL OP(MD) No.5902 of 2015

1 VN.PRAKASH
2 R.NEETHI
3 N.PAUNTHAI
4 S.RAMAR
5 N.JAYAPRIYA ... PETITIONERS in CRL OP(MD) No.5905 of 2015

-VS-

1 THE SUPERINTENDENT OF POLICE,
TUTICORIN DISTRICT.

2 THE INSPECTOR OF POLICE,
OTTAPIDARAM POLICE STATION,
TUTICORIN DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5825 of 2015

1 THE INSPECTOR OF POLICE,
ANTI LAND GRAB CELL, PALAYAMKOTTAI,
TIRUNELVELI.

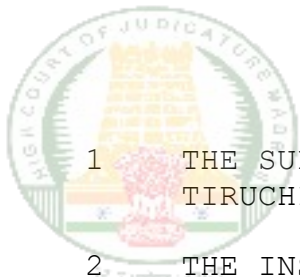
2 M.VELAMMAL ... RESPONDENTS in CRL OP(MD) No.5845 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
H4 KADUPATTI POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5866 of 2015

1 THE INSPECTOR OF POLICE,
THIRUPUVANAM POLICE STATION, SIVAGANGAI DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>
2 B.LATHA ... RESPONDENTS in CRL OP(MD) No.5874 of 2015



1 THE SUPERINTENDENT OF POLICE,
TIRUCHIRAPPALLI DISTRICT.

2 THE INSPECTOR OF POLICE,
ARIYAMANGALAM POLICE STATION, ARIYAMANGALAM,
TIRUCHIRAPPALLI DISTRICT... RESPONDENTS in CRL OP(MD) No.5877 of 2015

1 THE SUPERINTENDENT OF POLICE,
THE RAMANATHAPURAM DISTRICT, RAMANATHAPURAM.

2 THE ASSISTANT SUPERINTENDENT OF POLICE,
KAMUTHI SUB DIVISION, KAMUTHI,
RAMANATHAPURAM DISTRICT.

3 THE INSPECTOR OF POLICE,
KAMUTHI POLICE STATION, KAMUTHI,
RAMANATHAPURAM DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5885 of 2015

1 THE DISTRICT COLLECTOR,
OFFICE OF THE DISTRICT COLLECTOR, RAMNAD DISTRICT.

2 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
RAMNAD DISTRICT.

3 THE THASILDAR/II CLASS,
EXECUTIVE MAGISTRATE, THIRUVADANAI TALUK,
RAMNAD DISTRICT.

4 THE INSPECTOR OF POLICE,
R.S.MANGALAM POLICE STATION, RAMNAD DISTRICT.

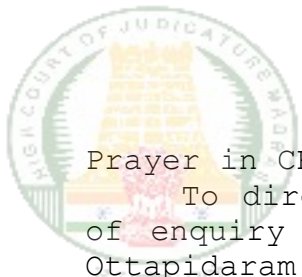
5 MOST.REV.SOOSAIMANICKAM
BISHOP OF SIVAGANGAI,
SIVAGANGAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5890 of 2015

1 THE DIRECTOR GENERAL OF POLICE,
OFFICE OF THE DIRECTOR GENERAL OF POLICE,
BEACH ROAD, MYLAPORE, CHENNAI.

2 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
TIRUMANGALAM TOWN POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5902 of 2015

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION THALLAKULAM
MADURAI CITY. ... RESPONDENT in CRL OP(MD) No.5905 of 2015



Prayer in CRL OP(MD) No.5825 of 2015:

To direct the respondents not to harass this petitioner in the name of enquiry in relation to Chandrasekar S/o. Veeraiah of Indira Colony, Ottapidaram Taluk, Tuticorin District.

Prayer in CRL OP(MD) No.5845 of 2015:

To direct the 1st respondent not to interfere in any way with the civil rights of the petitioner in property measuring 206.24 Sq.Mt. in Plot No. 56 in Re-survey No.1009/2, situated in Kulavanigarpuram Village Palayamkottai Taluk and Registration District.

Prayer in CRL OP(MD) No.5866 of 2015:

To directing the respondents not to harass the petitioners in the guise of enquiry.

Prayer in CRL OP(MD) No.5874 of 2015:

To direct the 1st respondent not to harass the petitioner in the name of enquiry, based on the false complaint given by the 2nd respondent.

Prayer in CRL OP(MD) No.5877 of 2015:

To direct the 2nd respondent not to harass the petitioners and pass suitable orders as this Hon'ble Court.

Prayer in CRL OP(MD) No.5885 of 2015:

To direct the respondents not to harass the petitioner in the guise of enquiry.

Prayer in CRL OP(MD) No.5890 of 2015:

To direct the respondent no.2,3 and 4 for not to harass the petitioner and his family members.

Prayer in CRL OP(MD) No.5902 of 2015:

To directing the 3rd respondent not to interfere with the civil dispute on the basis of the petitioners representation dated 24.03.2015 within a time frame fixed by this Honourable Court.

Prayer in CRL OP(MD) No.5905 of 2015:

To direct the respondent not to harass the petitioners and their family members under the guise of enquiry.

FOR PETITIONER

CRL.OP (MD) NO.5825/2015	:	MR.B.RAJESH SARAVANAN
CRL.OP (MD) NO.5845/2015	:	MR.N.SHANKAR GANESH
CRL.OP (MD) NO.5866/2015	:	MR.R.GOWRISHANKAR
CRL.OP (MD) NO.5874/2015	:	M/S.R.VINOTH BHARATHI
CRL.OP (MD) NO.5877/2015	:	MR.R.MANIMARAN
CRL.OP (MD) NO.5885/2015	:	MR.R.BABU JAGANATH
CRL.OP (MD) NO.5890/2015	:	MR.R.ALAGUMANI
CRL.OP (MD) NO.5902/2015	:	MR.T.VADIVELAN
CRL.OP (MD) NO.5905/2015	:	MR.R.MURALI

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

FOR RESPONDENTS

: MR.K.V.RAJARAJAN
GOVERNMENT ADVOCATE (CRL.SIDE) IN ALL CRL.OPS



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.

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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 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 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.

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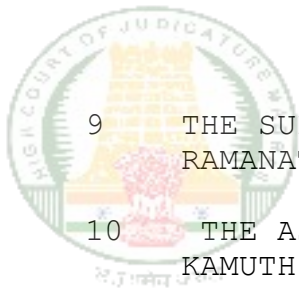
Assistant Registrar (AE)

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Sub Assistant Registrar

To

- 1 THE SUPERINTENDENT OF POLICE, TUTICORIN DISTRICT.
- 2 THE INSPECTOR OF POLICE,
OTTAPIDARAM POLICE STATION, TUTICORIN DISTRICT.
- 3 THE INSPECTOR OF POLICE, ANTI LAND GRAB CELL,
PALAYAMKOTTAI, TIRUNELVELI.
- 4 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT.
- 5 THE INSPECTOR OF POLICE,
H4 KADUPATTI POLICE STATION, MADURAI DISTRICT.
- 6 THE INSPECTOR OF POLICE,
THIRUPUVANAM POLICE STATION, SIVAGANGAI DISTRICT.
- 7 THE SUPERINTENDENT OF POLICE, TIRUCHIRAPPALLI DISTRICT.
- 8 THE INSPECTOR OF POLICE,
ARIYAMANGALAM POLICE STATION, ARIYAMANGALAM,
TIRUCHIRAPPALLI DISTRICT.



9 THE SUPERINTENDENT OF POLICE,
RAMANATHAPURAM DISTRICT, RAMANATHAPURAM.

10 THE ASSISTANT SUPERINTENDENT OF POLICE,
KAMUTHI SUB DIVISION, KAMUTHI, RAMANATHAPURAM DISTRICT.

11 THE INSPECTOR OF POLICE,
KAMUTHI POLICE STATION, KAMUTHI,
RAMANATHAPURAM DISTRICT.

12 THE DISTRICT COLLECTOR,
OFFICE OF THE DISTRICT COLLECTOR, RAMNAD DISTRICT.

13 THE THASILDAR/II CLASS,
EXECUTIVE MAGISTRATE, THIRUVADANAI TALUK, RAMNAD DISTRICT.

14 THE INSPECTOR OF POLICE,
R.S.MANGALAM POLICE STATION, RAMNAD DISTRICT.

15 THE DIRECTOR GENERAL OF POLICE,
OFFICE OF THE DIRECTOR GENERAL OF POLICE,
BEACH ROAD, MYLAPORE, CHENNAI.

16 THE SUPERINTENDENT OF POLICE,
OFFICE OF THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT.

17 THE INSPECTOR OF POLICE,
TIRUMANGALAM TOWN POLICE STATION, MADURAI DISTRICT.

18 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION THALLAKULAM, MADURAI CITY.

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

+1cc to MR.T.VADIVELAN, ADVOCATE IN SR : 16101
+1cc to MR.R.ALAGUMANI, ADVOCATE IN SR : 16063
+1cc to MR.R.BABU JAGANATH, ADVOCATE IN SR : 16040
+1cc to MR.R.MANIMARAN, ADVOCATE IN SR : 16036
+1cc to MR.R.GOWRISHANKAR, ADVOCATE IN SR : 15997
+1cc to MR.N.SHANKAR GANESH, ADVOCATE IN SR : 15882
+1cc to MR.B.RAJESH SARAVANAN, ADVOCATE IN SR : 16238

Pjl/Pm

SR : 23.04.2015 : 7p/27c

Cr1.O.P. (MD) Nos. 5825, 5845, 5866, 5874, 5877,
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31.03.2015