



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.03.2015
CORAM
THE HONOURABLE MR.JUSTICE C.T.SELVAM

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CrI.O.P. (MD) Nos.5858, 5863, 5875, 5876, 5878, 5892, 5897,
5899, 5900, 5901, 5903, 5913, 6005 and 6035 of 2015

M.PITCHAI	...	PETITIONER	in	CRL OP (MD)	No.5858	of	2015
A.APPAYA	...	PETITIONER	in	CRL OP (MD)	No.5863	of	2015
N.KRISHNAN	...	PETITIONER	in	CRL OP (MD)	No.5875	of	2015
L.PANDIAN	...	PETITIONER	in	CRL OP (MD)	No.5876	of	2015
SIVAKAMI	...	PETITIONER	in	CRL OP (MD)	No.5878	of	2015
D.KOWSALYA	...	PETITIONER	in	CRL OP (MD)	No.5892	of	2015
A.S.JALALUTHEEN	...	PETITIONER	in	CRL OP (MD)	No.5897	of	2015
VIGNESH	...	PETITIONER	in	CRL OP (MD)	No.5899	of	2015
R.VIJAYAKUMAR	...	PETITIONER	in	CRL OP (MD)	No.5900	of	2015
M.SHANTHI	...	PETITIONER	in	CRL OP (MD)	No.5901	of	2015
CHOCKAN @ CHOCKALINGAM	...	PETITIONER	in	CRL OP (MD)	No.5903	of	2015
K.S.SAGADEVARAJA	...	PETITIONER	in	CRL OP (MD)	No.5913	of	2015
T.GANESAN	...	PETITIONER	in	CRL OP (MD)	No.6005	of	2015
JEYACHANDRAN	...	PETITIONER	in	CRL OP (MD)	No.6035	of	2015

-VS-

- 1 THE SUPERINTENDENT OF POLICE,
DISTRICT POLICE OFFICE, PUDUKKOTTAI,
PUDUKKOTTAI DISTRICT.
- 2 THE INSPECTOR OF POLICE,
MATHUR POLICE STATION, MATHUR,
PUDUKKOTTAI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5858 of 2015
- 1 THE SUPERINTENDENT OF POLICE, THENI DISTRICT.
- 2 THE INSPECTOR OF POLICE,
ANDIPATTI POLICE STATION,
THENI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5863 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT, NAGERCOIL.
- 2 THE INSPECTOR OF POLICE,
ERANIEL POLICE STATION, ERANIEL,
MONDAY MARKET, KANYAKUMARI DIST.
- 3 THE SUB INSPECTOR OF POLICE,
ERANIEL POLICE STATION, ERANIEL,
MONDAY MARKET,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5875 of 2015
- 1 THE COMMISSIONER OF POLICE, MADURAI CITY.
- 2 THE INSPECTOR OF POLICE,
SUBRAMANIPURAM POLICE STATION,
MADURAI CITY. ... RESPONDENTS in CRL OP (MD) No.5876 of 2015



1 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT, SIVAGANGAI.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUPPATHUR
SIVAGANGAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5878 of 2015

1 THE INSPECTOR OF POLICE, EOW, MADURAI.

2 THE COMMISSIONER OF POLICE,
MADURAI DISTRICT, MADURAI. . RESPONDENTS in CRL OP(MD) No.5892 of 2015

1 THE SUPERINTENDENT OF POLICE,
RAMANATHAPURAM, RAMANATHAPURAM DISTRICT.

2 THE SUB-INSPECTOR OF POLICE,
PARAMAKUDI TOWN POLICE STATION, PARAMAKUDI,
RAMANATHAPURAM DISTRICT. .. RESPONDENTS in CRL OP(MD) No.5897 of 2015

1 THE SUB-INSPECTOR OF POLICE,
THIRUPATHTHUR, SIVAGANGAI DISTRICT.

2 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5899 of 2015

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5900 of 2015

1 THE SUPERINTENDENT OF POLICE,
TUTICORIN DISTRICT, TUTICORIN.

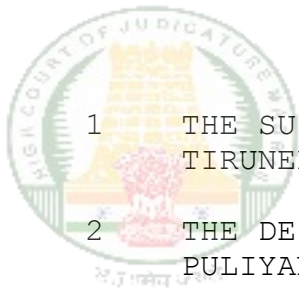
2 THE INSPECTOR OF POLICE,
KAYATHAAR POLICE STATION, KAYATHAAR,
TUTICORIN DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5901 of 2015

1 THE SUPERINTENDENT OF POLICE,
SIVAGANGAI, SIVAGANGAI DISTRICT.

2 THE INSPECTOR OF POLICE,
MADUGUPATTI POLICE STATION, MADUGUPATTI
SIVAGANGAI DISTRICT. ... RESPONDENT(s) in CRL OP(MD) No.5903 of 2015

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

2 THE INSPECTOR OF POLICE,
RAJAPALAYAM NORTH POLICE STATION, RAJAPALAYAM-626117,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5913 of 2015



1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI.

2 THE DEPUTY SUPERINTENDENT OF POLICE
PULIYANGUDI, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE,
KADAYANALLUR POLICE STATION, TIRUNELVELI DISTRICT.

4 THE SUB INSPECTOR OF POLICE,
CHOKKAMPATTI POLICE STATION, CHOKKAMPATTI
TIRUNELVELI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.6005 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.

2 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.6035 of 2015

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

Prayer in CRL OP(MD) No.5858 of 2015:

To directing the 2nd respondent herein to register a case on petitioners complaint dated 19.3.2015 enquire the same file a report before the court concerned.

Prayer in CRL OP(MD) No.5863 of 2015:

To direct the 2nd respondent police to register the case on the basis of the petitioner complaint dated 09.02.2015 and 16.03.2015.

Prayer in CRL OP(MD) No.5875 of 2015:

To direct the respondents to register a criminal case on the basis of the petitioner complaint dated 20.03.2015 and to investigate the matter in accordance with law.

Prayer in CRL OP(MD) No.5876 of 2015:

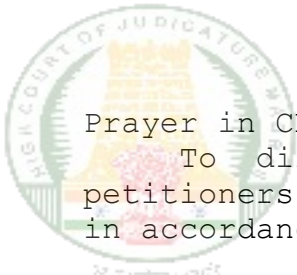
To direct the Inspector of Police Subramaniapuram Police Station, Madurai City the 2nd respondent herein to register the petitioners complaint as per the order passed by the Learned J.M. No.IV, Madurai, Madurai District in Cr.M.P. No. 742 of 2015 vide his order dated 07.03.2015 as an FIR within the stipulated period as prescribed by this Honourable Court.

Prayer in CRL OP(MD) No.5878 of 2015:

To direct the 2nd respondent to register a case as against the accused on the basis of the petitioners complaint dated 13.03.2015 within stipulated time.

Prayer in CRL OP(MD) No.5892 of 2015:

To direct the 2nd respondent to register the petitioners complaint dated 22.12.2014.



Prayer in CRL OP(MD) No.5897 of 2015:

To direct the 2nd respondent to register a case upon the petitioners complaint dated 09.01.2015 and to investigate into the same in accordance with law.

Prayer in CRL OP(MD) No.5899 of 2015:

To direct the 1st respondent to register a case based on complaint dated 22.11.2014 and investigate the same in accordance with law and to file final report within the time frame as fixed by this Honourable Court.

Prayer in CRL OP(MD) No.5900 of 2015:

To directing the respondents to register a case on the complaint of the petitioner dated 26.01.2015.

Prayer in CRL OP(MD) No.5901 of 2015:

To direct the 1st respondent to give suitable instruction to the 2nd respondent to register a case against the accused on the complaint of the petitioner dated 26.02.2015 within the period stipulated by this Honourable Court.

Prayer in CRL OP(MD) No.5903 of 2015:

To direct the 2nd respondent to register a case/FIR on the complaint given by the petitioner dated 28.02.2015 and investigate into the case.

Prayer in CRL OP(MD) No.5913 of 2015:

To direct the respondents to register the petitioners complaint dated 03.03.2015 and to pass any other further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

Prayer in CRL OP(MD) No.6005 of 2015:

To direct the 3rd respondent to register a criminal case against the Accused based on the complaint dated 22.01.2015 preferred by the petitioner and to take action against the accused in accordance with law.

Prayer in CRL OP(MD) No.6035 of 2015:

To direct the 2nd respondent to register the complaint dated 25.03.2015 preferred by the petitioner for the offences punishable under section 420, 465, 467, 468, 471 r/w 120(B) of IPC and to take action against the accused person in accordance with law and thus render justice.

For petitioner

MR.R.SUNDAR, ADVOCATE IN CRL.OP(MD)NO.5858/2015

MR.K.GOKUL, ADVOCATE IN CRL.OP(MD)NO.5863/2015

MR.G.KANNAN, ADVOCATE IN CRL.OP(MD)NO.5875/2015

MR.R.ANAND, ADVOCATE IN CRL.OP(MD)NO.5876/2015

MR.V.SENTHILKUMAR, ADVOCATE IN CRL.OP(MD)NO.5878/2015

MR.K.VINAYAGAN, ADVOCATE IN CRL.OP(MD)NO.5892/2015

MR.L.SHAJICHELLAN, ADVOCATE IN CRL.OP(MD)NO.5897/2015

MR.K.MUTHUMALAI, ADVOCATE IN CRL.OP(MD)NO.5899/2015

MR.S.C.HEROLDSINGH, ADVOCATE IN CRL.OP(MD)NO.5900/2015

MR.S.SELVAKUMAR, ADVOCATE IN CRL.OP(MD)NO.5901/2015

MR.S.SUNDARAPANDIAN, ADVOCATE IN CRL.OP(MD)NO.5903/2015

MR.M.SARAVANAKUMAR, ADVOCATE IN CRL.OP(MD)NO.5913/2015

MR.R.GANDHI, ADVOCATE IN CRL.OP(MD)NO.6035/2015

MR.K.DINESHBABU, ADVOCATE IN CRL.OP(MD)NO.6005/2015



FOR RESPONDENTS : MR.K.V.RAJARAJAN
IN ALL PETITIONS GOVERNMENT ADVOCATE (CRL.SIDE)

C O M M O N O R D E R

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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/-

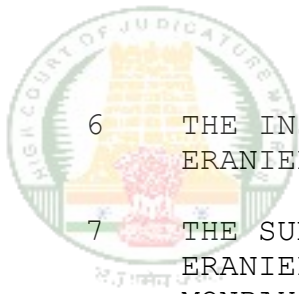
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

TO

- 1 THE SUPERINTENDENT OF POLICE, DISTRICT POLICE OFFICE, PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.
- 2 THE INSPECTOR OF POLICE, MATHUR POLICE STATION, MATHUR, PUDUKKOTTAI DISTRICT.
- 3 THE SUPERINTENDENT OF POLICE, THENI DISTRICT.
- 4 THE INSPECTOR OF POLICE, ANDIPATTI POLICE STATION, THENI DISTRICT.
- 5 THE SUPERINTENDENT OF POLICE, KANYAKUMARI DISTRICT, NAGERCOIL.



- 6 THE INSPECTOR OF POLICE, ERANIEL POLICE STATION,
ERANIEL, MONDAY MARKET, KANYAKUMARI DIST.
- 7 THE SUB INSPECTOR OF POLICE,
ERANIEL POLICE STATION, ERANIEL,
MONDAY MARKET, KANYAKUMARI DISTRICT.
- 8 THE COMMISSIONER OF POLICE, MADURAI CITY.
- 9 THE INSPECTOR OF POLICE,
SUBRAMANIAPURAM POLICE STATION, MADURAI CITY.
- 10 THE SUPERINTENDENT OF POLICE, SIVAGANGAI DISTRICT, SIVAGANGAI.
- 11 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUPPATHUR, SIVAGANGAI DISTRICT.
- 12 THE INSPECTOR OF POLICE, EOW, MADURAI.
- 13 THE SUPERINTENDENT OF POLICE,
RAMANATHAPURAM, RAMANATHAPURAM DISTRICT.
- 14 THE SUB-INSPECTOR OF POLICE,
PARAMAKUDI TOWN POLICE STATION, PARAMAKUDI, RAMANATHAPURAM DISTRICT.
- 15 THE SUB-INSPECTOR OF POLICE, THIRUPATTHUR, SIVAGANGAI DISTRICT.
- 16 THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION, KANYAKUMARI DISTRICT.
- 17 THE SUPERINTENDENT OF POLICE, TUTICORIN DISTRICT, TUTICORIN.
- 18 THE INSPECTOR OF POLICE,
KAYATHAAR POLICE STATION, KAYATHAAR, TUTICORIN DISTRICT.
- 19 THE INSPECTOR OF POLICE,
MADUGUPATTI POLICE STATION, MADUGUPATTI, SIVAGANGAI DISTRICT.
- 20 THE SUPERINTENDENT OF POLICE, VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.
- 21 THE INSPECTOR OF POLICE, RAJAPALAYAM NORTH POLICE STATION,
RAJAPALAYAM-626117, VIRUDHUNAGAR DISTRICT.
- 22 THE SUPERINTENDENT OF POLICE, TIRUNELVELI DISTRICT, TIRUNELVELI.
- 23 THE DEPUTY SUPERINTENDENT OF POLICE
PULIYANGUDI, TIRUNELVELI DISTRICT.
- 24 THE INSPECTOR OF POLICE,
KADAYANALLUR POLICE STATION, TIRUNELVELI DISTRICT.
- 25 THE SUB INSPECTOR OF POLICE,
CHOKKAMPATTI POLICE STATION, CHOKKAMPATTI
TIRUNELVELI DISTRICT.



26 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT, MADURAI.

27 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
MADURAI DISTRICT.

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

+1CC TO MR.K.GOKUL, ADVOCATE IN SR : 15956
+1CC TO MR.K.SATHIYA SINGH, ADVOCATE IN SR : 15966
+1CC TO MR.V.SENTHIL KUMAR, ADVOCATE IN SR : 16017
+1CC TO MR.K.VINAYAGAN, ADVOCATE IN SR : 15984
+1CC TO MR.L.SHAJI CHELLAN, ADVOCATE IN SR : 16393
+1CC TO MR.K.MUTHUMALAI, ADVOCATE IN SR : 15982
+1CC TO MR.S.C.HEROLD SINGH, ADVOCATE IN SR : 16593
+1CC TO MR.S.SELVAKUMAR, ADVOCATE IN SR : 16260
+1CC TO MR.M.SARAVANAKUMAR, ADVOCATE IN SR : 15926
+1CC TO MR.K.DINESH BABU, ADVOCATE IN SR : 16048
+1CC TO MR.S.SUNDARAPANDIAN, ADVOCATE IN SR : 16966

Pjl/Pm

SR : 22.04.2015 : 10p/42c

Cr1.O.P. (MD) Nos. 5858, 5863, 5875, 5876, 5878, 5892, 5897,
5899, 5900, 5901, 5903, 5913, 6005 and 6035 of 2015
31.03.2015