



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2015

CORAM

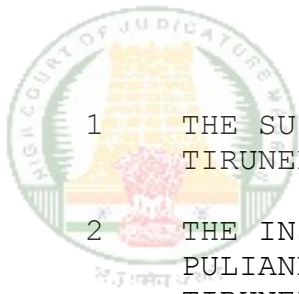
THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P. (MD) Nos.5919 to 5923,5927,5929,
5931,5932,5935,5936,5938 to 5941 of 2015

SENTHILKUMAR	...	PETITIONER	in	CRL OP (MD)	No.5919	of	2015
N.SIVAKUMAR	...	PETITIONER	in	CRL OP (MD)	No.5920	of	2015
P.MANJULA	...	PETITIONER	in	CRL OP (MD)	No.5921	of	2015
KARUPPAIAH	...	PETITIONER	in	CRL OP (MD)	No.5922	of	2015
U.PONNUSAMY	...	PETITIONER	in	CRL OP (MD)	No.5923	of	2015
ROJA	...	PETITIONER	in	CRL OP (MD)	No.5927	of	2015
AJITHA	...	PETITIONER	in	CRL OP (MD)	No.5929	of	2015
SUREKA	...	PETITIONER	in	CRL OP (MD)	No.5931	of	2015
ANNAMUTHU	...	PETITIONER	in	CRL OP (MD)	No.5932	of	2015
B. RAJENDRA PRASAD	...	PETITIONER	in	CRL OP (MD)	No.5935	of	2015
C.VELLAISAMY	...	PETITIONER	in	CRL OP (MD)	No.5936	of	2015
A.M.SUBRAMANIAN	...	PETITIONER	in	CRL OP (MD)	No.5938	of	2015
S. SUTHA	...	PETITIONER	in	CRL OP (MD)	No.5939	of	2015
MANOHARAN	...	PETITIONER	in	CRL OP (MD)	No.5940	of	2015
PRABU	...	PETITIONER	in	CRL OP (MD)	No.5941	of	2015

-VS-

- 1 THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE,
IDAIYAKOTTAI POLICE STATION, OTTANCHATRAM
DINDIGUL DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5919 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE,
PALANI TALUK POLICE STATION,
DINDIGUL DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5920 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
KARUR DISTRICT, KARUR.
- 2 THE INSPECTOR OF POLICE,
VELLIYANAI POLICE STATION,
KARUR DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5921 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE,
PULIYAN GUDI POLICE STATION,
TIRUNELVELI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5922 of 2015



1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT.

2 THE INSPECTOR OF POLICE,
PULIANKUDI POLICE STATION,
TIRUNELVELI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5923 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT, MADURAI.

2 THE INSPECTOR OF POLICE,
MELAVALAVU POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5927 of 2015

1 THE COMMISSIONER OF POLICE,
MADURI CITY, MADURAI.

2 THE INSPECTOR OF POLICE,
TALLAKULAM ALL WOMEN POLICE STATION,
MADURAI. ... RESPONDENTS in CRL OP(MD) No.5929 of 2015

1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

2 THE INSPECTOR OF POLICE,
TALLAKULAM ALL WOMEN POLICE STATION,
MADURAI. ... RESPONDENTS in CRL OP(MD) No.5931 of 2015

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

2 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5932 of 2015

1 THE COMMISSIONER OF POLICE, MADURAI.

2 THE INSPECTOR OF POLICE,
THILAGAR THIDAL POLICE STATION,
MADURAI. ... RESPONDENTS in CRL OP(MD) No.5935 of 2015

1 THE DISTRICT SUPERINTENDENT OF POLICE,
DISTRICT POLICE OFFICE, PUDUKKOTTAI TOWN,
PUDUKKOTTAI DISTRICT.

2 THE INSPECTOR OF POLICE,
PANAIYAPPATTI POLICE STATION,
PUDUKKOTTAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5936 of 2015

1 THE SUPERINTENDENT OF POLICE,
PUDUKKOTTAI DISTRICT, PUDUKKOTTAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
DISTRICT CRIME BRANCH (SPECIAL CELL FOR ANTI-LAND GRABBING)
PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.



3 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
(SPECIAL CELL FOR ANTI-LAND GRABBING), PUDUKKOTTAI
PUDUKKOTTAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5938 of 2015

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT.

2 THE INSPECTOR OF POLICE,
KARIYAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5939 of 2015

1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

2 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, MADURAI CITY,
MADURAI. ... RESPONDENTS in CRL OP(MD) No.5940 of 2015

1 THE SUPERINTENDENT OF POLICE,
SUBRAMANIPURAM, TRICHY DISTRICT.

2 THE INSPECTOR OF POLICE,
SIRUGANUR POLICE STATION, MANNACHANALUR TALUK,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5941 of 2015

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

Prayer in CRL OP(MD) No.5919 of 2015:

To direct the 2nd respondent to register the complaint dated 06.03.2015 preferred by the petitioner for the offences punishable under sections 120(b), 294(b), 379(NP), 406, 420 and 506(ii) IPC and to take action against the accused in accordance with law.

Prayer in CRL OP(MD) No.5920 of 2015:

To direct the respondents to register the FIR based on the complaint dated 01.03.2015 made by the petitioner and investigate the same in accordance with law within the time prescribed by this Honourable Court.

Prayer in CRL OP(MD) No.5921 of 2015:

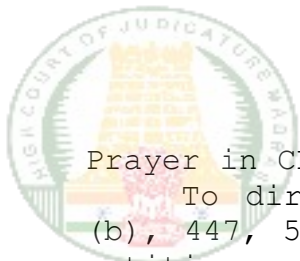
To direct the 2nd respondent to register a case based on the petitioners complaint dated 27.09.2014 and investigate the same in accordance with law.

Prayer in CRL OP(MD) No.5922 of 2015:

To directing the 2nd respondent herein to register the complaint given by the petitioner dated 18.3.2015 and take necessary action within the time stipulated by this Honourable Court.

Prayer in CRL OP(MD) No.5923 of 2015:

<https://hcservices.ecourts.gov.in/hcservices/>
To direct the 2nd respondent to register the complaint dated 24.03.2015 and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.



Prayer in CRL OP(MD) No.5927 of 2015:

To direct the 2nd respondent to register the FIR u/s 294(b), 120(b), 447, 506(ii), 379 of IPC on the basis of the complaint given by the petitioner dated 16.2.2015 and investigate the same and file a final report in accordance with law.

Prayer in CRL OP(MD) No.5929 of 2015:

To, directing the respondents to register the FIR by considering the petitioners representation dated 18/03/2015.

Prayer in CRL OP(MD) No.5931 of 2015:

To, directing the respondents to register the FIR by considering the petitioners representation dated 24/03/2015.

Prayer in CRL OP(MD) No.5932 of 2015:

To, directing the 2nd respondent to register a case on the complaint given by the petitioners dated 24/03/2015 and prosecute the accused in accordance with law.

Prayer in CRL OP(MD) No.5935 of 2015:

To direct the 2nd respondent to register a case on the complaint given by the petitioner on 16/09/12 over the accused on the Supervision of 1st Respondent.

Prayer in CRL OP(MD) No.5936 of 2015:

To direct the 2nd respondent police station to register a case on the complaint dated 21.03.2015 and to conduct investigation in accordance with law.

Prayer in CRL OP(MD) No.5938 of 2015:

To direct the 1st respondent to directing the 3rd respondent to register the case against the accused based on the petitioners complaint dated 22.06.2014 within a period of stipulated time limit.

Prayer in CRL OP(MD) No.5939 of 2015:

To, directing the respondents particularly the 2nd respondent to register the complaint of the petitioner dated 04/09/2014 and investigate the same in accordance with the law and also file the final reports and pass any other orders as this Hon'ble Court.

Prayer in CRL OP(MD) No.5940 of 2015:

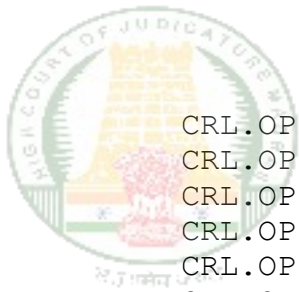
To direct the 2nd respondent to register the complaint lodged by the petitioner dated 13.03.2015 and pass such further or other orders as this Court deems fit and proper in the circumstances of the case.

Prayer in CRL OP(MD) No.5941 of 2015:

To direct the 2nd respondent to register the case on petition dated 16.2.2015.

FOR PETITIONER

<https://hcservices.ecourts.gov.in/hcservices/>
CRL OP (MD) NO. 5919/2015 : MR.R.CHANDRA SEKAR
CRL OP (MD) NO.5920/2015 : MR.A.D.GANESHAMOORTHY
CRL.OP (MD) NO.5921/2015 : MR.AN.RAMANATHAN



CRL.OP (MD) NO.5922/2015 : MR.A.ROBINSON
CRL.OP (MD) NO.5923/2015 : MR.V.MUTHUVELAN
CRL.OP (MD) NO.5927/2015 : MR.S.J.CHAKKARAVARTHY
CRL.OP (MD) NOS.5929 & 5931/2015: MR.R.MANOCHARAN
CRL.OP (MD) NOS.5932 & 5940/2015: MR.V.KANNAN
CRL.OP (MD) NO.5935/2015 : MR.R.RAMASAMY
CRL.OP (MD) NO.5936/2015 : MR.V.SELVA
CRL.OP (MD) NO.5938/2015 : MR.S.MUTHALRAJ
CRL.OP (MD) NO.5939/2015 : M/S.R.VINOTH BHARATHI
CRL.OP (MD) NO.5941/2015 : MR.S.MUTHUKRISHNAN

FOR RESPONDENTS : MR.K.V.RAJARAJAN
GOVERNMENT ADVOCATE (CRL.SIDE) CRL.OPS

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:

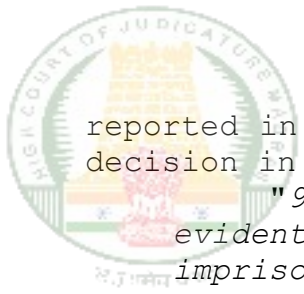
"By way of an interim order, this Court directs respondent police to peruse the complaint preferred by petitioner herein and register a case if the same informs commission of cognizable offence. In particular instances, respondent police may resort to a petition enquiry which again shall not extend beyond 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 ploy 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 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)



(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 (RTI)

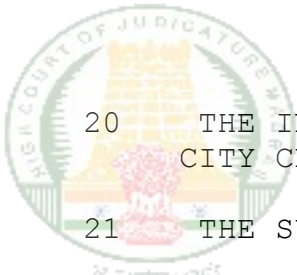
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Sub Assistant Registrar



TO

- 1 THE SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE,
IDAIYAKOTTAI POLICE STATION, OTTANCHATRAM, DINDIGUL DISTRICT.
- 3 THE INSPECTOR OF POLICE,
PALANI TALUK POLICE STATION, DINDIGUL DISTRICT.
- 4 THE SUPERINTENDENT OF POLICE, KARUR DISTRICT, KARUR.
- 5 THE INSPECTOR OF POLICE,
VELLIYANAI POLICE STATION, KARUR DISTRICT.
- 6 THE SUPERINTENDENT OF POLICE, TIRUNELVELI DISTRICT, TIRUNELVELI.
- 7 THE INSPECTOR OF POLICE,
PULIYAN GUDI POLICE STATION, TIRUNELVELI DISTRICT.
- 8 THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT, MADURAI.
- 9 THE INSPECTOR OF POLICE,
MELAVALAVU POLICE STATION, MADURAI DISTRICT.
- 10 THE COMMISSIONER OF POLICE, MADURI CITY, MADURAI.
- 11 THE INSPECTOR OF POLICE,
TALLAKULAM ALL WOMEN POLICE STATION, MADURAI.
- 12 THE SUPERINTENDENT OF POLICE, VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.
- 13 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR, VIRUDHUNAGAR DISTRICT.
- 14 THE INSPECTOR OF POLICE,
THILAGAR THIDAL POLICE STATION, MADURAI.
- 15 THE DISTRICT SUPERINTENDENT OF POLICE,
DISTRICT POLICE OFFICE, PUDUKKOTTAI TOWN, PUDUKKOTTAI DISTRICT.
- 16 THE INSPECTOR OF POLICE,
PANAIYAPPATTI POLICE STATION, PUDUKKOTTAI DISTRICT.
- 17 THE DEPUTY SUPERINTENDENT OF POLICE,
DISTRICT CRIME BRANCH (SPECIAL CELL FOR ANTI-LAND GRABBING)
PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.
- 18 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH,
(SPECIAL CELL FOR ANTI-LAND GRABBING), PUDUKKOTTAI
PUDUKKOTTAI DISTRICT.
- 19 THE INSPECTOR OF POLICE,
KARIYAPATTI POLICE STATION, VIRUDHUNAGAR DISTRICT.



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

21 THE SUPERINTENDENT OF POLICE, SUBRAMANIPURAM, TRICHY DISTRICT.

22 THE INSPECTOR OF POLICE, SIRUGANUR POLICE STATION,
MANNACHANALUR TALUK, TRICHY DISTRICT.

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

+1CC TO MR.R.CHANDRA SEKAR, ADVOCATE IN SR : 17138
+1CC TO MR.A.D.GANESHA MOORTHY, ADVOCATE IN SR : 16366
+1CC TO MR.A.ROBINSON, ADVOCATE IN SR : 16466
+1CC TO MR.V.MUTHUVELAN, ADVOCATE IN SR : 16252
+2CCS TO MR.R.MANOCHARAN, ADVOCATE IN SR : 16690 & 16691
+2CCS TO MR.V.KANNAN, ADVOCATE IN SR : 16793 & 16791
+1CC TO MR.V.SELVA, ADVOCATE IN SR : 16336
+1CC TO MR.NA.PALANIYANDI, ADVOCATE IN SR : 16706
+1CC TO MR.S.MUTHUKRISHAN, ADVOCATE IN SR : 16320

Pj1/Vs

SR : 23.04.2015 : 9p/35c

Cr1.O.P. (MD) Nos.5919 to 5923,5927,5929,
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