



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2015

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THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P.(MD)Nos.5948, 5951, 5954, 5958, 5960, 5963,
5967 to 5972 & 5978 to 5980 of 2015

M.POURNAMI	... PETITIONER in CRL OP (MD) No.5948 of 2015
D.DHEIVEEKARAN	... PETITIONER in CRL OP (MD) No.5951 of 2015
P.PRADEEP	... PETITIONER in CRL OP (MD) No.5954 of 2015
N.SAKTHIVEL	... PETITIONER in CRL OP (MD) No.5958 of 2015
SANGILIKARUPPAN	... PETITIONER in CRL OP (MD) No.5960 of 2015
S.ROYCE EMMANUEL	... PETITIONER in CRL OP (MD) No.5963 of 2015
SABURA	... PETITIONER in CRL OP (MD) No.5967 of 2015
ISWARYA	... PETITIONER in CRL OP (MD) No.5968 of 2015
V.SHANMUGASUNDARAM	... PETITIONER in CRL OP (MD) No.5969 of 2015
RAJASEKAR	... PETITIONER in CRL OP (MD) No.5970 of 2015
T.GOMATHI	... PETITIONER in CRL OP (MD) No.5971 of 2015
V.ANNAMALAI	... PETITIONER in CRL OP (MD) No.5972 of 2015
R.PERUMAL	... PETITIONER in CRL OP (MD) No.5978 of 2015
K.M.RAMESH RAJA	... PETITIONER in CRL OP (MD) No.5979 of 2015
PUSHPA ARTHUR	... PETITIONER in CRL OP (MD) No.5980 of 2015

-VS-

- 1 THE SUPERINTENDENT OF POLICE,
MADURAI RURAL DISTRICT, MADURAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
USILAMPATTI, MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
ELUMALAI POLICE STATION, ELUMALAI,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5948 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT, TRICHY.
- 2 THE SUB INSPECTOR OF POLICE,
LALKUDI POLICE STATION,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP (MD) No.5951 of 2015
- 1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (CRIME BRANCH)
MADURAI DIST, ... RESPONDENTS in CRL OP (MD) No.5954 of 2015



1 THE SUPERINTENDENT OF POLICE,
MUSIRI TALUK, TRICHY DISTRICT.

2 THE INSPECTOR OF POLICE,
MUSIRI POLICE STATION, MUSIRI TALUK,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5958 of 2015

WEB COPY

1 THE SUPERINTENDENT OF POLICE,
MANAPPARAI TALUK, TRICHY DISTRICT.

2 THE INSPECTOR OF POLICE,
VAIYAMPATTI POLICE STATION, MANAPPARAI TALUK,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5960 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI.

2 THE INSPECTOR OF POLICE,
TIRUPPARANKUNDRAM POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5963 of 2015

1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

2 THE INSPECTOR OF POLICE,
TALLAKULAM POLICE STATION,
MADURAI DIST. ... RESPONDENTS in CRL OP(MD) No.5967 of 2015

1 THE SUPERINTENDENT OF POLICE,
PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PUDUKKOTTAI. ... RESPONDENTS in CRL OP(MD) No.5968 of 2015

1 THE SUPERINTENDENT OF POLICE,
PUDUKKOTTAI DISTRICT.

2 THE SUB INSPECTOR OF POLICE,
NAGUDI POLICE STATION,
PUDUKKOTTAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5969 of 2015

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

2 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5970 of 2015

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT, NAGERCOIL.

2 THE SUB INSPECTOR OF POLICE,
<https://hcservices.ecourts.gov.in/hcservices/>
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5971 of 2015



1 THE INSPECTOR OF POLICE
C2 SUBRAMANIAPURAM POLICE STATION, MADURAI.

2 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI. ... RESPONDENTS in CRL OP(MD) No.5972 of 2015

1 THE SUPERINTENDENT OF POLICE,
MADURAI DISTRICT.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUMANGALAM MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
KODAKOIL POLICE STATION, THIRUMANGALAM
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5978 of 2015

1 THE SUPERINTENDENT OF POLICE,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

2 THE INSPECTOR OF POLICE,
RAJAPALAYAM SOUTH POLICE STATION, RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5979 of 2015

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE INSPECTOR OF POLICE,
VADASERY POLICE STATION,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5980 of 2015

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

Prayer in CRL OP(MD) No.5948 of 2015:

To direct the 3rd respondent to register the case on the complaint of the petitioner dated 08.01.2015 and investigate with the matter in accordance with law.

Prayer in CRL OP(MD) No.5951 of 2015:

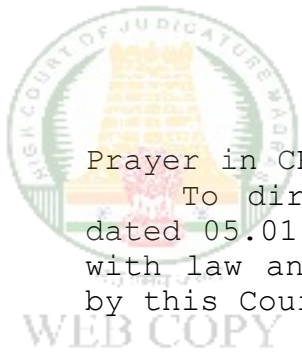
To direct the 2nd respondent to register the case based on the complaint given by the petitioner herein dated 13.03.2015 and investigate the same in accordance with law.

Prayer in CRL OP(MD) No.5954 of 2015:

To direct the 2nd respondent to register the case based on the complaint given by the petitioner herein dated 19.03.2015 and investigate the same in accordance with law.

Prayer in CRL OP(MD) No.5958 of 2015:

To direct the 2nd respondent to register an FIR on the complaint dated 28.01.2015 of the petitioner and investigate the same in accordance with law and also to file the final report within a time frame as fixed by this Honble Court.



Prayer in CRL OP(MD) No.5960 of 2015:

To direct the 2nd respondent to register an FIR on the complaint dated 05.01.2015 of the petitioner and investigate the same in accordance with law and also to till the final report within a time frame as fixed by this Court.

Prayer in CRL OP(MD) No.5963 of 2015:

To direct the 2nd respondent to register a case based on the petitioners complaint dated 25.02.2015.

Prayer in CRL OP(MD) No.5967 of 2015:

To directing the 2nd respondent to register a case on the petitioners complaint dated 14.01.2015.

Prayer in CRL OP(MD) No.5968 of 2015:

To directing the respondents to register the FIR on basis of the complaint of the petitioner dated 21.03.2015.

Prayer in CRL OP(MD) No.5969 of 2015:

To issue a direction, directing the respondents to register the FIR on basis of the complaint of the petitioner dated 05.02.2015.

Prayer in CRL OP(MD) No.5970 of 2015:

To issue a direction, directing the 2nd respondent to register a case on the petitioners complaint dated 27.03.2015 and investigate the case in accordance with law.

Prayer in CRL OP(MD) No.5971 of 2015:

To direct the respondents more particularly the 2nd respondent to register the petitioners complaint dated 19.11.2014 presented on 20.11.2014 and proceed with the same as per law within the time frame that may be fixed by this Court.

Prayer in CRL OP(MD) No.5972 of 2015:

To direct the respondent to register the complaint of petitioner given on 21.11.2014.

Prayer in CRL OP(MD) No.5978 of 2015:

To direct the 2nd respondent police to register the case on the complaint given by the petitioner dated 05.03.2015 and to investigate the same within the stipulated time.

Prayer in CRL OP(MD) No.5979 of 2015:

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

Prayer in CRL OP(MD) No.5980 of 2015:

To pass appropriate order and direct the 2nd respondent to register a case on the complaint of the petitioner dated 16.12.2014 and investigate the matter in accordance with law and thus render justice.



FOR PETITIONERS

CRL.OP (MD) NO.5948/2015	:	MR.A.G.SENTHILKUMAR
CRL.OP (MD) NO.5951/2015	:	MR.S.KRISHNAN FOR M/S.K.J.ASSOCIATES
CRL.OP (MD) NO.5954/2015	:	MR.M.JEGADEESH PANDIAN
		FOR M/S.K.J.ASSOCIATES
CRL.OP (MD) NO.5958 & 5960/2015	:	MR.N.R.BALAJI
CRL.OP (MD) NO.5963/2015	:	M/S.T.INDRACHITHU
CRL.OP (MD) NO.5967/2015	:	MR.D.SENTHIL
CRL.OP (MD) NO.5968/2015	:	MR.K.BAALASUNDHARAM
CRL.OP (MD) NO.5969/2015	:	MR.RMS.SETHURAMAN
CRL.OP (MD) NO.5970/2015	:	MR.T.LENINKUMAR
CRL.OP (MD) NO.5971/2015	:	MR.S.RAMAKRISHNAN
CRL.OP (MD) NO.5972/2015	:	MR.E.KARTHIKEYAN
CRL.OP (MD) NO.5978/2015	:	MR.N.SUBRAMANI
CRL.OP (MD) NO.5979/2015	:	MR.P.T.THIRAVIAM
CRL.OP (MD) NO.5980/2015	:	MR.C.R.NIMAL

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

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.

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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 (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 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. Accordingly, these petitions are ordered as above.

Sd/-

Assistant Registrar (T&P)

/True copy/



TO

1 THE SUPERINTENDENT OF POLICE, MADURAI RURAL DISTRICT, MADURAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
USILAMPATTI, MADURAI DISTRICT.3 THE INSPECTOR OF POLICE,
ELUMALAI POLICE STATION, ELUMALAI, MADURAI DISTRICT.

4 THE SUPERINTENDENT OF POLICE, TRICHY DISTRICT, TRICHY.

5 THE SUB INSPECTOR OF POLICE,
LALKUDI POLICE STATION, TRICHY DISTRICT.

6 THE COMMISSIONER OF POLICE, MADURAI CITY, MADURAI.

7 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (CRIME BRANCH) MADURAI DIST.

8 THE SUPERINTENDENT OF POLICE, MUSIRI TALUK, TRICHY DISTRICT.

9 THE INSPECTOR OF POLICE,
MUSIRI POLICE STATION, MUSIRI TALUK, TRICHY DISTRICT.

10 THE SUPERINTENDENT OF POLICE, MANAPPARAI TALUK, TRICHY DISTRICT.

11 THE INSPECTOR OF POLICE, VAIYAMPATTI POLICE STATION,
MANAPPARAI TALUK, TRICHY DISTRICT.12 THE INSPECTOR OF POLICE,
TIRUPPARANKUNDRAM POLICE STATION, MADURAI DISTRICT.13 THE INSPECTOR OF POLICE,
TALLAKULAM POLICE STATION, MADURAI DISTRICT.

14 THE SUPERINTENDENT OF POLICE, PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.

15 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PUDUKKOTTAI.16 THE SUB INSPECTOR OF POLICE,
NAGUDI POLICE STATION, PUDUKKOTTAI DISTRICT.

17 THE SUPERINTENDENT OF POLICE, VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

18 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR DISTRICT.

19 THE SUPERINTENDENT OF POLICE, KANYAKUMARI DISTRICT, NAGERCOIL.

20 THE SUB INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION, KANYAKUMARI DISTRICT.



21 THE INSPECTOR OF POLICE
C2 SUBRAMANIAPURAM POLICE STATION, MADURAI.

22 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUMANGALAM MADURAI DISTRICT.

23 THE INSPECTOR OF POLICE,
KODAKOIL POLICE STATION, THIRUMANGALAM, MADURAI DISTRICT.

24 THE INSPECTOR OF POLICE,
RAJAPALAYAM SOUTH POLICE STATION, RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.

25 THE INSPECTOR OF POLICE, VADASERY POLICE STATION,
KANYAKUMARI DISTRICT.

26. THE SUPERINTENDENT OF POLICE, MADURAI.

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

+1CC TO MR.A.G.SENTHILKUMAR, ADVOCATE IN SR : 16328

+1CC TO MR.INDRACHITHU, ADVOCATE IN SR : 16253

+1CC TO MR.K.BAALASUNDARAM, ADVOCATE IN SR : 16299

+1CC TO MR.R.M.S.SETHURAMAN, ADVOCATE IN SR : 16300

+1CC TO MR.T.LENIN KUMAR, ADVOCATE IN SR : 16445

+1CC TO MR.S.RAMAKRISHNAN, ADVOCATE IN SR : 16652

+1CC TO MR.E.KARTHIKEYAN, ADVOCATE IN SR : 16556

+1CC TO MR.N.SUBRAMANI, ADVOCATE IN SR : 16573

+1CC TO MR.P.T.THIRAVIAM, ADVOCATE IN SR : 16283

+1CC TO MR.CR.NIMAL, ADVOCATE IN SR : 17242

Pj1/Vs

SR : 22.04.2015 : 9p/38c

Cr1.O.P. (MD) Nos. 5948, 5951, 5954, 5958, 5960, 5963,
5967 to 5972 & 5978 to 5980 of 2015
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