



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

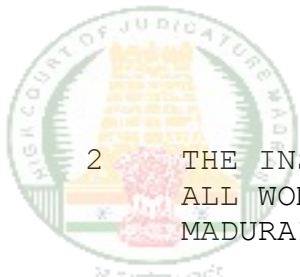
Crl.O.P. (MD) Nos.5981,5983,5984,5986,5989,5991,5993,
5996,5997,5998,6002 to 6004,6006,6009 and 5925 of 2015

WEB COPY

M.SOMU	... PETITIONER in CRL OP(MD) No.5981 of 2015
RASATHI	... PETITIONER in CRL OP(MD) No.5983 of 2015
N.SULAIMAN	... PETITIONER in CRL OP(MD) No.5984 of 2015
K.GOVINDARAJ	... PETITIONER in CRL OP(MD) No.5986 of 2015
JEROLIN	... PETITIONER in CRL OP(MD) No.5989 of 2015
PALANISAMY	... PETITIONER in CRL OP(MD) No.5991 of 2015
JAHANGEER	... PETITIONER in CRL OP(MD) No.5993 of 2015
S.POTHUM PONNU	... PETITIONER in CRL OP(MD) No.5996 of 2015
SHYNI V DHAS	... PETITIONER in CRL OP(MD) No.5997 of 2015
R.VASUKI	... PETITIONER in CRL OP(MD) No.5998 of 2015
F.SELVARAJ	... PETITIONER in CRL OP(MD) No.6002 of 2015
APOORVAM	... PETITIONER in CRL OP(MD) No.6003 of 2015
S.BAZEER AHAMED	... PETITIONER in CRL OP(MD) No.6004 of 2015
M.KARRUPPASAMY	... PETITIONER in CRL OP(MD) No.6006 of 2015
P.VENKATACHALAM	... PETITIONER in CRL OP(MD) No.6009 of 2015
MAHALAKSHMI	... PETITIONER in CRL OP(MD) No.5925 of 2015

-VS-

- 1 THE SUPERINTENDENT OF POLICE,
O/O.SUPERINTENDENT OF POLICE, RAMNAD DIST.
- 2 INSPECTOR OF POLICE, CBCID,
RAMNAD DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5981 of 2015
- 1 THE SUPERINTENDENT OF POLICE,
THENI DISTRICT, THENI.
- 2 THE INSPECTOR OF POLICE,
THENI POLICE STATION,
THENI. ... RESPONDENTS in CRL OP(MD) No.5983 of 2015
- 1 THE COMMISSIONER OF POLICE,
MADURAI, MADURAI DIST.
- 2 THE INSPECTOR OF POLICE,
KOOLDAL PUDUR POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5984 of 2015
- 1 THE ASSITANT COMMISSIONER OF POLICE (CRIME BRANCH),
MADURAI DISTRICT, MADURAI.
- 2 THE INSPECTOR OF POLICE, CRIME,
K.PUDHUR POLICE STATION, K.PUDHUR, MADURAI,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5986 of 2015



2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THERKUVASAL, MADURAI,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5989 of 2015

1 THE SUPERINTENDENT OF POLICE,
TRICHY DISTRICT, TRICHY.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
MANAPARAI, TRICHY DISTRICT.

3 THE SUB INSPECTOR OF POLICE,
VALANAADU POLICE STATION,
TRICHY DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5991 of 2015

1 THE DEPUTY SUPERINTENDENT OF POLICE,
MELUR, MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
B1-MELUR POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5993 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.5996 of 2015

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT, NAGERCOIL-629 001.

2 THE INSPECTOR OF POLICE,
ERANIEL POLICE STATION, NEYOOR POST,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5997 of 2015

1 THE COMMISSIONER OF POLICE,
MADURAI CITY, MADURAI.

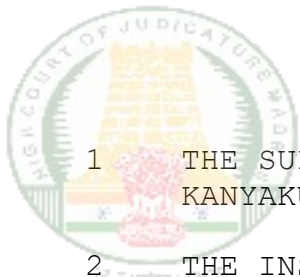
2 THE INSPECTOR OF POLICE, THALLAKULAM POLICE STATION,
MADURAI. ... RESPONDENTS in CRL OP(MD) No.5998 of 2015

1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT, NAGERCOIL.

2 THE INSPECTOR OF POLICE,
VADASERY POLICE STATION,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.6002 of 2015

1 THE COMMISSIONER OF POLICE,
MADURAI DISTRICT, MADURAI.

2 THE INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION,
MADURAI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.6003 of 2015



1 THE SUPERINTENDENT OF POLICE,
KANYAKUMARI DISTRICT, KANYAKUMARI.

2 THE INSPECTOR OF POLICE,
RAJAKKAMANGALAM POLICE STATION,
KANYAKUMARI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.6004 of 2015

1 THE SUPERINTENDENT OF POLICE,
TIRUNELVELI DISTRICT, TIRUNELVELI.

2 THE INSPECTOR OF POLICE,
KURUVIKULAM POLICE STATION, KURUVIKULAM,
TIRUNELVELI DISTRICT. ... RESPONDENTS in CRL OP(MD) No.6006 of 2015

1 THE SPECIAL SECRETARY,
CHIEF MINISTERS SPECIAL CELL,
GOVERNMENT OF TAMILNADU CHENNAI.

2 THE DISTRICT SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
VEDASANDUR SUB DIVISION, DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE,
VEDASANDUR CIRCLE, VEDASANDUR,
DINDIGUL DISTRICT. ... RESPONDENTS in CRL OP(MD) No.6009 of 2015

1 THE SUPERINTENDENT OF POLICE, VIRUDHUNAGAR.

2 THE INSPECTOR OF POLICE,
SIVAKASI EAST POLICE STATION, SIVAKASI,
VIRUDHUNAGAR DISTRICT. ... RESPONDENTS in CRL OP(MD) No.5925 of 2015

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

Prayer in CRL OP(MD) No.5981 of 2015:

To direct the 2nd respondents to register a case based on the complaint preferred by the petitioner to the 1st respondent dated 30.01.2015.

Prayer in CRL OP(MD) No.5983 of 2015:

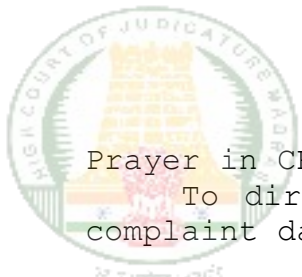
To direct the 1st respondent to instruct the 2nd respondent to register a case based on the complaint given by the petitioner dated on 20.3.2015.

Prayer in CRL OP(MD) No.5984 of 2015:

To direct the 2nd respondent to register a case based on the complaint preferred by the petitioner dated 03.03.2015 as to the fact and as circumstances as this Honble Court.

Prayer in CRL OP(MD) No.5986 of 2015:

To direct the respondent police to register the case based upon the complaint of the petitioner dated 12.03.2015.



Prayer in CRL OP(MD) No.5989 of 2015:

To direct the 2nd respondent to register a case on the petitioners complaint dated 27.3.2015.

Prayer in CRL OP(MD) No.5991 of 2015:

To direct the 1st respondent to directing the 3rd respondent herein to register the case against the above accused on the basis of the petitioners complaint dated 04.12.2014.

Prayer in CRL OP(MD) No.5993 of 2015:

To direct the 1st respondent to instruct the 2nd respondent to register the FIR based on the complaint dated 17.02.2015 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.5996 of 2015:

To direct the respondents to register a case on the complaint of the petitioner dated 16.3.2015 within the stipulated period as may be fixed by this Honourable Court.

Prayer in CRL OP(MD) No.5997 of 2015:

To direct the 2nd respondent to register the case as per the complaint of the petitioner dated 20.01.2015.

Prayer in CRL OP(MD) No.5998 of 2015:

To direct the 2nd respondent to register the complaint of the petitioner dated 12.03.2105 against the proposed accused and proceed the same as per law within a stipulated time that may be fixed by this Honourable Court.

Prayer in CRL OP(MD) No.6002 of 2015:

To direct the 2nd respondent to take appropriate action and register a case against the proposed accused based on his complaint dated 03.08.2007 given by the petitioner.

Prayer in CRL OP(MD) No.6003 of 2015:

To direct the 2nd respondent to register the case on basis of the complaint given by the petitioner dated 26.3.2015 and investigate the case accordance with law.

Prayer in CRL OP(MD) No.6004 of 2015:

To direct the 2nd respondent to register the case on basis of the complaint given by the petitioner dated 17.03.2015 and investigate the case in accordance with law.

Prayer in CRL OP(MD) No.6006 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 20.03.2015 within the period stipulated by this Honourable Court.

Prayer in CRL OP(MD) No.6009 of 2015:

To direct the 3rd respondent to register the case based on the complaint given by the petitioner dated 30.4.2011 against the culprits.



Prayer in CRL OP(MD) No.5925 of 2015:

To direct the 2nd respondent to register a case on the basis of the complaint given by the petitioner on 24.03.2015 and to take action against the accused persons.

WEB COPY FOR PETITIONER

CRL.OP (MD) NO.5981/2015	:	MR.S.A.S.ALAUDEEN
CRL.OP (MD) NO.5983/2015	:	MR.M.KAMATCHI
CRL.OP (MD) NO.5984/2015	:	MR.K.K.KANNAN
CRL.OP (MD) NO.5986/2015	:	MR.M.SRIDHARAN
CRL.OP (MD) NO.5989/2015	:	MR.T.INDRACHITHU
CRL.OP (MD) NO.5991/2015	:	MR.S.MUTHALRAJ
CRL.OP (MD) NO.5993/2015	:	MR.A.D.GANESHAMOORTHY
CRL.OP (MD) NO.5996/2015	:	MR.R.SIVALINGAM
CRL.OP (MD) NO.5997/2015	:	MR.M.DENNIS JOE
CRL.OP (MD) NO.5998/2015	:	MR.R.PANDI MAHARAJA
CRL.OP (MD) NO.6002/2015	:	MR.J.SIVARAM
CRL.OP (MD) NOS.6003 & 6004/2015:		MR.R.VENKATESAN
CRL.OP (MD) NO.6006/2015	:	MR.S.SELVAKUMAR
CRL.OP (MD) NO.6009/2015	:	MR.RM.ARUN SWAMINATHAN
CRL.OP (MD) NO.5925/2015	:	MR.P.GANAPATHI SUBRAMANIAN

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.

<https://hcservices.courts.gov.in/hcservices/> 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 (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

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 extended to 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 (Crl.side)

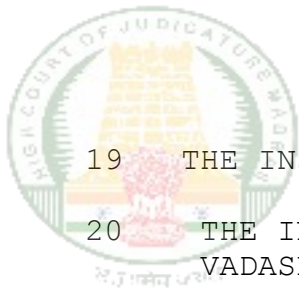
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Sub Assistant Registrar

TO

- 1 THE SUPERINTENDENT OF POLICE,
O/O.SUPERINTENDENT OF POLICE, RAMNAD DIST.
- 2 INSPECTOR OF POLICE, CBCID, RAMNAD DISTRICT.
- 3 THE SUPERINTENDENT OF POLICE, THENI DISTRICT, THENI.
- 4 THE INSPECTOR OF POLICE, THENI POLICE STATION, THENI.
- 5 THE COMMISSIONER OF POLICE, MADURAI, MADURAI DIST.
- 6 THE INSPECTOR OF POLICE,
KOOLDAL PUDUR POLICE STATION, MADURAI DISTRICT.
- 7 THE ASSITANT COMMISSIONER OF POLICE (CRIME BRANCH),
MADURAI DISTRICT, MADURAI.
- 8 THE INSPECTOR OF POLICE, CRIME,
K.PUDHUR POLICE STATION, K.PUDHUR, MADURAI.
- 9 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THERKUVASAL, MADURAI.
- 10 THE SUPERINTENDENT OF POLICE, TRICHY DISTRICT, TRICHY.
- 11 THE DEPUTY SUPERINTENDENT OF POLICE,
MANAPARAI, TRICHY DISTRICT.
- 12 THE SUB INSPECTOR OF POLICE,
VALANAADU POLICE STATION, TRICHY DISTRICT.
- 13 THE DEPUTY SUPERINTENDENT OF POLICE, MELUR, MADURAI DISTRICT.
- 14 THE INSPECTOR OF POLICE,
B1-MELUR POLICE STATION, MADURAI DISTRICT.
- 15 THE SUPERINTENDENT OF POLICE, SIVAGANGAI DISTRICT, SIVAGANGAI.
- 16 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
THIRUPPATHUR, SIVAGANGAI DISTRICT.
- 17 THE SUPERINTENDENT OF POLICE, KANYAKUMARI DISTRICT, NAGERCOIL.
- 18 THE INSPECTOR OF POLICE, ERANIEL POLICE STATION,
NEYOOR POST, KANYAKUMARI DISTRICT.



19 THE INSPECTOR OF POLICE, THALLAKULAM POLICE STATION, MADURAI.

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

WEB COPY

21 THE INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION, MADURAI DISTRICT.

22 THE INSPECTOR OF POLICE,
RAJAKKAMANGALAM POLICE STATION, KANYAKUMARI DISTRICT.

23 THE SUPERINTENDENT OF POLICE, TIRUNELVELI DISTRICT, TIRUNELVELI.

24 THE INSPECTOR OF POLICE, KURUVIKULAM POLICE STATION,
KURUVIKULAM, TIRUNELVELI DISTRICT.

25 THE SPECIAL SECRETARY, CHIEF MINISTERS SPECIAL CELL,
GOVERNMENT OF TAMILNADU CHENNAI.

26 THE DISTRICT SUPERINTENDENT OF POLICE, DINDIGUL DISTRICT.

27 THE DEPUTY SUPERINTENDENT OF POLICE,
VEDASANDUR SUB DIVISION, DINDIGUL DISTRICT.

28 THE INSPECTOR OF POLICE, VEDASANDUR CIRCLE,
VEDASANDUR, DINDIGUL DISTRICT.

29 THE SUPERINTENDENT OF POLICE, VIRUDHUNAGAR.

30 THE INSPECTOR OF POLICE, SIVAKASI EAST POLICE STATION,
SIVAKASI, VIRUDHUNAGAR DISTRICT.

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

+1CC TO MR.NA.PALANIYANDI, ADVOCATE IN SR : 16707

+1CC TO MR.K.K.KANNAN, ADVOCATE IN SR : 3939

+1CC TO MR.M.KAMATCHI, ADVOCATE IN SR : 17136

+1CC TO M/S.CHETTINAD LEGAL SOLUTIONS, IN SR : 16428

+1CC TO MR.S.SELVAKUMAR, ADVOCATE IN SR : 16259

+1CC TO MR.M.DENNIS JOE, ADVOCATE IN SR : 16290

+1CC TO MR.R.SIVALINGAM, ADVOCATE IN SR : 16262

+1CC TO MR.A.D.GANESHA MOORTHY, ADVOCATE IN SR : 16365

+1CC TO MR.M.SRIDHARAN, ADVOCATE IN SR : 16557

Pj1/Vs

SR : 23.04.2015 : 9p/41c

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