



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)No.1974 of 2016

B.Kavitha : Petitioner

Versus

1.The Commissioner of Police,
Madurai City.

2.The Inspector of Police,
All Women Police Station,
Madurai City,
In Crime No.22 of 2015.

: Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to direct the second respondent to conduct the investigation in Crime No.22 of 2015 on her file in a proper manner as per law.

For Petitioner : Mr.S.M.A.Jinnah
for M/s.R.Mohamed
Rajapdheen

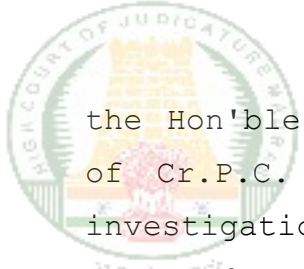
For Respondents: Mrs.S.Prabha
Government Advocate (Crl.side)

O R D E R

This petition has been filed for a direction to the 2nd respondent to conduct the investigation in Crime No.22 of 2015 on her file in a proper manner as per law.

2. On the complaint lodged by this petitioner, the respondent police have registered a case in Crime No.22 of 2015 under Sections 498(A), 506 (i) IPC and Section 4 of Dowry Prohibition Act against Karthick Raja and five others. While so, the de-facto complainant has filed this present petition for a direction to the respondent police to arrest Kalanithi (A4) and Shanthakumar (A6).

3. In **Arnesh Kumar Vs. State of Bihar** reported in **2014 (8) Scale 250**, the Hon'ble Supreme Court has deprecated the practice of the police hurriedly arresting any person involved in matrimonial offence. In fact,



the Hon'ble Supreme Court has stated that a notice under Section 41(A) of Cr.P.C. should be issued for the presence of the accused during investigation. Hence, the direction as prayed for by the petitioner cannot be granted. That apart, in **Johinder Kumar vs. State of Uttar Pradesh** reported in **1994 SCC (4) 260**, the Hon'ble Supreme Court stated that existence of power to arrest is one thing and exercise of the power is a different issue. Hence, under Section 482 of the Code of Criminal Procedure, this Court cannot give direction to the respondent police to act in a particular manner during investigation. Hence, this petition is devoid of merits and the same is closed.

Sd/-
Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To

- 1.The Commissioner of Police,
Madurai City.
- 2.The Inspector of Police,
All Women Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P. (MD) No.1974 of 2016
09.03.2016

RR
SH/SK-SKN:29.03.2016:2P/4C