



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2018

CORAM

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THE HON'BLE MR.JUSTICE P. RAJAMANICKAM

Crl.O.P.(MD) No.1446 of 2018

1.S.Karthick  
2.Muthu  
3.Gokul  
4.S.Vignesh  
5.C.Subash  
6.M.Rajkumar  
7.M.Aravind  
8.K.Mariappan  
9.S.Vimal  
10.B.Nagaraj

... Petitioners/Accused Nos.1,3,4,5,6,7,  
8,10,11 and 12

-Vs-

1.The Deputy Superintendant of Police,  
Uthamapalayam Police Station,  
Uthamapalayam Taluk,  
Theni District.

2.The State rep. by its  
The Inspector of Police,  
Chinnamanoor Police Station,  
Chinnamanoor,  
Theni District.

..Respondents 1 &amp; 2/Complainants.

3.M.Thalapathi

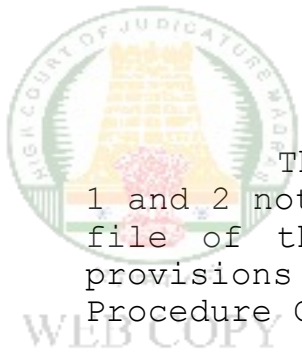
...3<sup>rd</sup> Respondent/Defacto Complainant.

Prayer: This Criminal Original petition is filed under Section 482 of Code of Criminal Procedure, to direct the respondent Police not to harass the petitioner in Crime No.24 of 2018 on the file of the Inspector of Police, Chinnamanoor Police Station, Theni District without adhering to the mandatory provision of law contemplated under Section 41A of Cr.P.C 2009.

For Petitioner : M/s.K.P.S. Palanivelrajan

For Respondents : Mr.Prabhu Ramachandran

Government Advocate (Crl. Side)

O R D E R

This petition has been filed to direct the respondent nos. 1 and 2 not to harass the petitioners in Crime No.24 of 2018, on the file of the second respondent without adhering to the mandatory provisions of law contemplated under Section 41-A of Criminal Procedure Code.

2. The learned counsel appearing for the petitioners has submitted that based upon the complaint given by the third respondent, the second respondent has registered a case against the petitioners herein and two others in Crime No.24 of 2018, for the offences under Sections 147, 148, 448, 294(b), 323, 506(ii) of IPC and Section 4 of Harassment of Woman Act, 2002 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. He further submitted that the respondent nos. 1 and 2 are not following the guidelines issued by the Hon'ble Supreme Court in the case of Arenesh Kumar Vs. State of Bihar reported in 2014(4) SCALE 250. He further contended that in the aforesaid decision the Hon'ble Supreme Court has clearly held that before arresting the accused persons, the procedure prescribed under Section 41-A of Cr.P.C., should be followed, but, without following the aforesaid procedure, the respondent nos. 1 and 2 have arrested two persons viz., accused nos. 2 and 9 and hence, he requests to issue a suitable direction to the respondent nos. 1 and 2 to follow the procedures laid down under Section 41-A of Cr.P.C.,

3. The learned Government Advocate (Crl. Side) appearing for the respondent nos. 1 and 2 has submitted that the first respondent is investigating the case and during the investigation, he has arrested the accused persons viz., A2 and A9, only after following the guidelines issued by the Hon'ble Supreme Court in the aforesaid decision. He further submitted that the petitioners herein are absconding and hence, the question of following the order passed by the Hon'ble Supreme Court does not arise.

4. The Hon'ble Supreme Court in the case of Arenesh Kumar Vs. State of Bihar reported in 2014(4) SCALE 250 has clearly held that if the directions given in the aforesaid decision are not complied with, then, the concerned Police officers are liable for Departmental action and they are also liable to be punished for contempt of Court to be instituted before High Court having territorial jurisdiction. Therefore, it is always open to the aggrieved persons to approach the High Court by filing contempt petition if they feel that the concerned Police officers have violated the directions of the Hon'ble Supreme court. Further, since already the Hon'ble Supreme Court has issued directions to the Police Officers and also to the Magistrates, it is not necessary to issue same kind of directions by this Court.



5. With the aforesaid observations, the Criminal Original Petition is disposed of.

Sd/-  
Assistant Registrar(CS-I)

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Sub Assistant Registrar

To

1.The Deputy Superintendant of Police,  
Uthamapalayam Police Station,  
Uthamapalayam Taluk,  
Theni District.

2.The Inspector of Police,  
Chinnamanoor Police Station,  
Chinnamanoor,  
Theni District.

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1CC to Mr.K.P.S.Palanivel Rajan, Advocate, SR.No. 45121

Cr1.O.P.(MD) No.1446 of 2018  
31.01.2018

trp  
AM/SV MMS/SAR 1/05.02.2018/3P/5C