



WEB COPY



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.01.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A(MD)NO.1526 OF 2022
and
C.M.P(MD)No.12855 of 2022**

C.Pauldurai

:Appellant/Petitioner

.VS.

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

3.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

4.The President,
Paloor Panchayat,
Poootheri,
Kanyakumari District.

5.S.Thanislal

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent
praying this Court to set aside the order passed by this Court in
W.P(MD)No.23949 of 2022, dated 28.10.2022



For Appellant : Mr.V.Sasikumar
For Respondents : Mr.M.Sarangan
1, 2 and 4
For Respondent-3 : Mr.S.Manikandan
Govt.Advocate(Crl.side)
For Respondent-5 : Mr.J.Bebin Jose

JUDGMENT

[Judgment of the Court was made by **D.KRISHNAKUMAR,J.**]

The learned counsel for the appellant has filed this Writ Appeal praying this Court to set aside the order passed by this Court in W.P(MD)No.23949 of 2022, dated 28.10.2022.

2.Challenge in the Writ Petition is against the order passed by the third respondent/The Inspector of Police, Karungal Police Station, Kanyakumari District.The Writ Petition was dismissed on 28.10.2022. Challenging the same, this intra-Court Writ Appeal is filed before this Court.

3.In the latest decision of the Division Bench of this Court in W.A.SR.No.44351 of 2020, dated 3.8.2020, it is held that the Writ Appeal is not maintainable, as against the order made in Writ Petition(Crl.side) and the said power has to be exercised by the



Court dealt with the matter under Section 482 of Cr.P.C. In yet another decision reported in **2018-2 L.W 111 in the case of S. 768 K.N.Pudur Primary Agricultural Cooperative Credit Society Limited, represented by its President, K.Morur, Kadaiyampatti Taluk, Salem District .vs. G.Balakrishnan and others**, it is held that when a power conferred under Article 226 is invoked at the instance of a litigant with regard to any criminal matter, it is deemed to have been exercised by the Court under Section 482 of Cr.P.C and hence no intra Court appeal is permissible. Moreover, in yet another recent decision of the Division Bench of this Court in **Ajay Kumar Bishnoi .vs. The Inspector of Police, J2,Adayar Police Station, Chennai and others (W.A.No. 2167/2022, dated 12.10.2022)**, in which, I am one of the party, has rejected the Writ Appeal on the ground of maintainability stating the reason as stated supra.

4.In the light of the above decisions, this Court is not inclined to entertain the above Writ Appeal and the same is liable to be dismissed and accordingly, the Writ Appeal stands dismissed. It is open to the Petitioner to take steps to recall the said order or to approach the competent appellate forum, for necessary relief, in the manner known to law. Consequently, connected Miscellaneous



Petition is closed. No costs.

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[D.K.K.,J.] [R.V.,J.]
04.01.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn

To

- 1.The District Collector,
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D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

vsn

**JUDGMENT MADE IN
W.A(MD)NO.1526 OF 2022
and
C.M.P(MD)No.12855 of 2022**

04.01.2023