



Crl.OP.(MD)Nos.10189, 10201, 10249, 10882 & 11577 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 29.08.2025

PRONOUNCED ON : 28.11.2025

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

Crl.OP.(MD)Nos.10189, 10201, 10249, 10882 & 11577 of 2025

and

Crl.MP.(MD)Nos.7600, 7601, 7635, 7636 of 2025

Crl.OP.(MD)No.10189 of 2025:-

M.Gopalakrishnan

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by the Superintendent of Police,
O/o.the Superintendent of Police,
Madurai District.

2.The Deputy Superintendent of Police,
Melur,
Madurai District.

3.The Inspector of Police,
Melavalavu Police Station,
Melur Taluk,
Madurai District.

4.The Superintendent of Prison,
Central Prison,
Madurai.

... Respondents



Crl.OP.(MD)Nos.10189, 10201, 10249, 10882 & 11577 of 2025

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Prayer: Criminal Original Petition filed under Section 528 of BNSS seeking a direction to the learned Judicial Magistrate, Melur, to number the unnumbered Crl.MP.No. __ of 2025 filed u/s.173(4) BNSS and to pass appropriate orders.

For Petitioner : Mr.K.Dinesh

For Respondents : Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl. Side)

Crl.OP(MD)No.10201 of 2025:-

Minor Krishnakanth
Rep. by his Paternal Aunt
Muthurakku

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Melavalavu Police Station,
Madurai District.
Cr.No.202/2022

2.Jeyakousalya

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS to call for the records in JC.No.56 of 2024 pending on the file of the Juvenile Justice Board, Madurai and quash the same.



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CrI.OP.(MD)Nos.10189, 10201, 10249, 10882 & 11577 of 2025

For Petitioner

: Mr.P.Ganapathi Subramanian

For Respondents

: Mr.A.S.Abul Kalaam Azad
Government Advocate (CrI. Side)
for R.1

Mr.N.Anantha Padmanabhan,
Senior Counsel
for Mr.S.Sukumar for R.2

CrI.OP.(MD)No.10249 of 2025:-

1.Barath

2.Pandi Selvi

3.Alagammal

4.Jeyalakshmi

... Petitioners

Vs

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
Melavalavu Police Station,
Madurai District.
Cr.No.202/2022

2.Jeyakousalya

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS to call for the records relating to the charge sheet in SC.No.107 of 2025 on the file of the IV Additional District and Sessions Judge, Madurai and quash the same.



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Crl.OP.(MD)Nos.10189, 10201, 10249, 10882 & 11577 of 2025

For Petitioners

: Mr.D.Rupan Sakkarawarthy

For Respondents

: Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl. Side)
for R.1

Mr.N.Anantha Padmanabhan,
Senior Counsel
for Mr.S.Sukumar for R.2

Crl.OP.(MD)No.10882 of 2025:-

Thirumalai

... Petitioner

Vs

1.State of Tamil Nadu,
Rep. by the Superintendent of Police,
O/o.the Superintendent of Police,
Madurai District.

2.The Deputy Superintendent of Police,
Melur,
Madurai District.

3.The Inspector of Police,
Melavalavu Police Station,
Melur Taluk,
Madurai District.
Cr.No.39/2020

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS seeking a direction to the learned Judicial Magistrate, Melur, either to issue the Certified Copy of the FIR in Cr.No.114 of 2021 or to return the copy application made by him vide filing No.5607 dated 12.06.2025.



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Crl.OP.(MD)Nos.10189, 10201, 10249, 10882 & 11577 of 2025

For Petitioner

: Mr.K.Dinesh

For Respondents

: Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl. Side)

Crl.OP(MD)No.11577 of 2025:-

M.Gopalakrishnan

... Petitioner

Vs

1.N.Gusalavan

2.K.Thilagavathi

3.T.Sivakami

4.K.Thirunavukarasu

5.T.Banumathi

6.A.Thiruvanamalai

7.Lakshmanan

8.Anitha

9.Suresh

10.Barvathi

11.K.Pasumpon @ Pasumpon Muthuramalingam

12.Ayyan

13.Rajendran



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14.Nilamegam

15.Raja

16.Sivasakthi

17.Charles

18.Anvar Bek

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS seeking a direction to the learned Judicial Magistrate, Melur, to expedite the proceedings in Crl.MP.No.4054 of 2024 and dispose of the same within a stipulated time limit.

For Petitioner : Mr.K.Dinesh

For Respondents : Mr.G.Prabhu Rajadurai
for Mr.K.Vinoharan
for RR.1, 2, 7, 8

Mr.P.Gunasekaran
for R.10 to R.13

No appearance
for RR.3 to 6, 9, 14 to 18

COMMON ORDER

These criminal original petitions arise out of a connected series of events involving the petitioners on one side and a set of private individuals on the other, in the backdrop of long-standing disputes concerning certain



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waterbodies. Since the factual matrix, the grievances projected and the reliefs sought are interrelated, all the petitions are taken up together and disposed of by this common order.

2.The broad factual background may be stated at the outset. One Gopalakrishnan, who figures as the petitioner in several of these matters, had instituted proceedings before this Court as early as in the year 2012 seeking removal of encroachments from three Kanmois in A.Vallalapatti Village, namely, Murugakone Kanmoi, Puthu Kanmoi and Nayakankulam Kanmoi. The lands comprised in these waterbodies, measuring about 456.31 acres, were originally classified as Minor Inams. By order dated 06.08.2014, a Division Bench of this Court, headed by His Lordship Hon'ble Mr.Justice V.RAMASUBRAMANIAN, declared these areas to be waterbodies and directed the authorities to evict the encroachers. Consequent to this, the Settlement Officer cancelled pattas in certain survey numbers on 28.07.2016.

3.It is alleged that these directions were not fully implemented and the waterbodies remained encroached, giving rise to friction between Gopalakrishnan and those said to be in unlawful occupation, particularly



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one Kusalavan. The continuing dispute, as alleged, forms the backdrop for the later incidents which have culminated in the present set of petitions.

4.The first of these incidents occurred on 24.02.2020. It is claimed that on that day the agricultural field of Gopalakrishnan was trespassed upon, standing papaya trees were destroyed and irrigation pipelines were damaged. A written complaint was lodged by Gopalakrishnan, which resulted in CSR No.103 of 2020. On the very same day, a counter-complaint was filed against Gopalakrishnan and his family members and Crime No. 39 of 2020 came to be registered for serious offences including those under the SC/ST (Prevention of Atrocities) Act. The petitioners were arrested and later enlarged on bail. But, that bail was subsequently cancelled by this Court in the year 2023 in view of the pendency of a later case. The complaint lodged by the petitioner in CSR No.103 of 2020, however, was later closed by the police on the ground that the parties could not be contacted and that the CSR had remained pending beyond six months.

5.In this regard, Gopalakrishnan has filed Crl.MP.No.4339 of 2023 and on 12.07.2024, the learned Judicial Magistrate, Melur directed the police to conduct an enquiry and register an FIR, if any cognizable offence



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is made out. The respondent Police conducted enquiry and filed a closure report before the Judicial Magistrate, Melur. Alleging that the respondent Police has not conducted proper enquiry, Gopalakrishnan has filed CrI.MP.No.4054 of 2024. Since the said proceedings is pending for over a year without any progress, the criminal original petition in **CrI.OP(MD)No. 11577 of 2025** has been filed seeking directions to expedite the disposal of the complaint in CrI.MP.No.4054 of 2024.

6.A second incident took place on 16.06.2021, when a relative of the said Gopalakrishnan was allegedly attacked near the IOC Pipeline Road, Sampranipatti, and sustained serious cut injuries. In this regard, Crime No. 114 of 2021 was registered. This Court, while dealing with the anticipatory bail petitions relating to this incident, took note of the nature of injuries and rejected the applications. Thereafter, by order dated 11.08.2021, this Court transferred the investigation in Crime No.114 of 2021 to the Deputy Superintendent of Police, Melur, expressing concerns regarding the manner in which the local police had proceeded. However, the Deputy Superintendent of Police, after assuming charge, filed a closure report on 08.12.2021 treating the occurrence as a mistake of fact.



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7.The *defacto* complainant filed a protest petition before the learned Judicial Magistrate, Melur. That protest petition remained unattended owing to the disappearance of the case bundle from the court records in 2022. This forms the subject matter in one of the present petitions in **CrI.OP(MD)No.10882 of 2025**, which was filed seeking directions to issue certified copy of the FIR in Crime No. 114 of 2021 from the Court or to return the Copy Application.

8.The most serious of the occurrences is the murder of one Suresh on 18.12.2022 in the Sampranipatti marketplace. It is stated that Suresh belonged to the group opposing Gopalakrishnan and was a witness in Crime No.39 of 2020 [first incident]. Crime No.202 of 2022 was registered in respect of the murder. In connection with this murder case, Gopalakrishnan was arrested in January 2023. The final report, initially naming certain individuals, was later expanded to include several more accused persons, including a minor, who is the petitioner in one of these petitions. The petitioners allege that the inclusion of multiple accused, particularly the minor, was mechanical and unsupported by material.



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9. After investigation, charge sheet has been laid and the case is now pending before the IV Additional District and Sessions Court, Madurai, in SC.No.107 of 2025 and before the Juvenile Justice Board, Madurai, in JC.No. 56 of 2024. In order to quash these proceedings, **Crl.OP(MD)Nos.10201 and 10249** have been filed.

10. During the period between 18.12.2022 and 25.01.2023, when Gopalakrishnan was in custody, his residence was allegedly broken open and various documents, including Court orders and valuables were stolen. A complaint was lodged by his mother resulting in CSR No.89 of 2023. But, it was closed as “nothing happened”. Gopalakrishnan later addressed a detailed complaint from prison dated 21.06.2024, which was endorsed and forwarded by the prison authorities and assigned CSR No.204 of 2024. But that CSR was closed on 27.09.2024 on the ground that the complaint had not been sent through the proper channel. Gopalakrishnan thereafter filed a petition under Section 156(3) CrPC before the Judicial Magistrate, Melur, on 26.03.2025. But, the learned Magistrate returned the petition on 04.04.2025 citing Section 173(4) of the BNSS that the complaints to both the Station House Officer and the Superintendent of Police were made on the



same day. The petitioner attributes this series of events to improper handling of his complaints, which led to the filing of **CrI.OP(MD)No.10189 of 2025** seeking directions to number his complaint and to take action.

SUBMISSIONS OF THE PETITIONERS

11.The petitioners submit that the chain of incidents spanning from 2020 to 2025 cannot be viewed as isolated occurrences but must be seen in the context of a long-standing dispute relating to the encroachments in the three Kanmois at A.Vallalapatti Village. They contend that Gopalakrishnan's efforts to enforce the orders of this Court in the waterbody litigation generated hostility from those who were beneficiaries of the encroachments, particularly Kusalavan and persons associated with him. According to the petitioners, the subsequent criminal cases, counter-cases and enquiry closures are an outgrowth of this hostility.

12.The petitioners submit that their first complaint dated 26.02.2020 [agricultural field], which culminated in CSR No.103 of 2020, was not properly enquired into. They assert that their agricultural field was damaged and crops were destroyed, yet the police neither examined the *defacto* complainant nor inspected the field. They state that the CSR was



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later closed mechanically on the ground of non-availability of parties and pendency beyond six months, though they were willing to participate in the enquiry. They also emphasise that on the very day of the alleged occurrence, a counter-case in Crime No.39 of 2020 was registered against them with serious offences, reinforcing their allegation that the investigative machinery was more responsive to the opposite group.

13. With respect to Crime No.114 of 2021, the petitioners point out that the injuries sustained by their family member were grievous and that this Court had initially found the matter serious enough to reject anticipatory bail petitions. They argue that after this Court, raising concerns over the manner in which the investigation was being conducted, transferred the investigation to the Deputy Superintendent of Police, the filing of a closure report treating the matter as a “mistake of fact” raises doubts about the integrity of the investigation. They further emphasise that the case bundle of the said incident went missing from the Magistrate Court and that their protest petition could not be taken up due to the unavailability of records. According to them, the disappearance of the bundle indicate systemic lapses that prejudiced their proceedings.



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14.Regarding the alleged theft from Gopalakrishnan's residence during his custody, the petitioners submit that they gave a detailed complaint from prison on 21.06.2024. They highlight that the prison authorities themselves forwarded the complaint officially, and yet CSR No. 204 of 2024 was closed on the ground that the complaint was not sent through proper channel. They contend that this reason is demonstrably false in the face of the Superintendent of Prisons' forwarding endorsement. The petitioners further point out that when they approached the Magistrate with a petition under Section 156(3) CrPC, the Magistrate returned the petition citing Section 173(4) of the BNSS, even though Gopalakrishnan was in custody at that time and could not have personally given complaints to the Station House Officer and the Superintendent of Police simultaneously.

15.With regard to Crime No.202 of 2022, the petitioners assert that the murder took place in a public marketplace, yet no independent eyewitnesses have been arrayed by the prosecution. They contend that the eyewitnesses cited are either relatives or employees of Kusalavan. They assert that the roles attributed to the accused are vague, lacking specificity and appear to be a mechanical reproduction without forensic or medical support. In particular, they submit that the minor who has been arrayed as



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an accused was not named in the FIR, was not implicated in the earliest witness versions, and that his inclusion was an afterthought unsupported by material. They also argue that the expansion of the array of accused persons over time reveals a pattern of systematic implication designed to weaken their waterbody activism and silence their legal challenges.

16.The petitioners, therefore, contend that the cumulative circumstances, viz., closure of CSR No.103 of 2020 without proper enquiry, the disappearance of records in Crime No.114 of 2021, the improper closure of CSR No.204 of 2024, the return of the petition u/s.156(3) CrPC, the pattern of counter-cases, and the infirmities in the investigation of Crime No.202 of 2022, collectively demonstrate that the investigative process has been neither fair nor independent. On these grounds, they seek transfer of investigation to an independent agency in certain matters, quashing of proceedings against the minor and similarly situated accused, and supervisory directions concerning the pending proceedings.

SUBMISSIONS OF THE STATE / RESPONDENTS

17.Learned Government Advocate (Crl. Side) submitted that the allegations levelled by the petitioners are unfounded and that the police



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have conducted all enquiries and investigations strictly in accordance with law. It is contended that the petitioners have been attempting to portray themselves as victims of a systematic targeting, whereas the records reveal that they have involved in multiple criminal cases and that serious offences stand registered against them. According to the State, the pendency of various cases against the petitioners itself indicates that they are not persons free from blame and that the criminal proceedings are not retaliatory but lawfully instituted.

18.In respect of CSR No.103 of 2020 [agricultural field], the State contends that the closure was based on the fact that the parties were not available, that key individuals were abroad, and that the matter had remained pending for more than six months despite repeated attempts to secure their participation. The State asserts that the petitioners cannot now complain of non-examination when they themselves were uncooperative at material points.

19.As to Crime No.114 of 2021 [Gopalakrishnan's relative got attacked], the State submits that after this Court transferred the investigation, the Deputy Superintendent of Police conducted a detailed



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enquiry and only thereafter filed a closure report. The State maintains that the closure was based on the merits of the enquiry and was not motivated by any extraneous consideration. Regarding the disappearance of the case bundle, the State submits that the same was later traced, that no prejudice is caused now, and that the matter can proceed in accordance with law without casting aspersions on the investigative agency.

20.In relation to CSR No.204 of 2024 [house break-in], the State contends that the closure was made in accordance with extant procedure. It is the State's stand that the Station House Officer recorded the closure based on procedural requirements and that the Magistrate's return of the petition filed u/s.156(3) CrPC was a judicial act that cannot be attributed to any investigative lapse. The State asserts that the complaint was not properly channelled in terms of the procedural requirements and that the petitioner is seeking to portray ordinary administrative decisions as mala fide.

21.Insofar as Crime No.202 of 2022 [murder case] is concerned, the State submits that the occurrence was a serious one and that the investigation has resulted in substantial material connecting the accused



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persons to the crime. The State argues that the expansion of the list of accused is not a sign of mala fides but a natural outcome of recording of additional witness statements and collection of evidence during the course of investigation. It is submitted that the absence of independent witnesses cannot by itself invalidate the investigation and that the credibility of witnesses is a matter to be tested in trial.

22.The State urges that the petitioners' attempt is an endeavour to derail the prosecution in the murder case. It is submitted that the extraordinary jurisdiction of this Court should not be invoked lightly, particularly when the police have acted lawfully, the materials justify the filing of the final report, and the petitioners have an adequate opportunity to adduce their defence before the appropriate forum.

23.However, learned Senior Counsel appearing for the *defacto* complainant in Crime No.202 of 2024 fairly submitted that there is no substantive material implicating the minor petitioner in the murder case and that the eye witnesses have not attributed any role to him. It is therefore submitted that he is not having any serious objection to the proceedings being quashed as against the minor in JC.No.56 of 2024.



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24.Learned Government Advocate (Crl. Side) has also accepted the same that there is no proper material as against the minor petitioner.

25.After the submissions of both sides were heard, this Court sought clarification on two aspects arising from the factual matrix placed on record.

26.The first relates to the missing of the case bundle / protest petition filed in Crime No.114 of 2021 [Gopalakrishnan's relative got attacked]. The materials show that after the closure report was filed and a protest petition was presented, the entire case bundle had gone missing from the Judicial Magistrate Court, Melur, and remained untraceable for a considerable period. Therefore, this Court sought for a report and the learned Chief Judicial Magistrate, Madurai, has now reported that the records have been traced and restored to the judicial file.

27.The second concerns the return of Gopalakrishnan's petition under Section 156(3) CrPC by the Judicial Magistrate on the basis of Section 173(4) of the BNSS. The factual materials disclose that the complaint in CSR No.



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204 of 2024 [house break-in] was forwarded from the prison with the proper endorsement of the Superintendent of Prisons. The subsequent closure of the CSR and the Magistrate's return of the petition filed u/s. 156(3) CrPC formed part of the grievance projected. The learned Judicial Magistrate has since furnished an explanation acknowledging that the return was made under a mistaken understanding and has expressed regret for the same and that the same would be numbered upon re-presentation.

28.This Court has carefully considered the factual circumstances placed on record, the sequence of events spanning multiple years, and the submissions made by both sides. This Court has also called for the CD files and also perused the same.

29.The matters before this Court arise from connected incidents between the same set of parties, and the petitioners have alleged a pattern in which their complaints were handled, closed, or returned, while counter-cases and later proceedings against them progressed without similar procedural impediments. The State, on the other hand, asserts that every action taken by the police was in accordance with law and that the petitioners themselves were involved in multiple serious offences.



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30.As seen from the records, this case is having a chequered history. Gopalakrishnan, in the capacity of the President of Farmers Association and also the President of Village Forest Committee, organized by the District Forest Department has filed a writ petition in WP(MD)No.8286 of 2012, in the form of Public Interest Litigation as against the Revenue officials as well as one Kusalavan and one Rajendran, who is the subsequent purchaser of the lands from Kusalavan, for a Mandamus, directing the official respondents to preserve the water bodies, such as, Murugakone Kanmoi in S.Nos.811/1 to 4, Puthukanmoi @ Sinnankulam in S.Nos. 815 & 819 of A.Vallalapatti Village, Melur Taluk and its supply channels to these tanks in S.Nos.813 & 814 of A.Vallalapatti Village, Melur Taluk, Madurai District and S.Nos.9, 8, 7 & 21 of Kidaripatti Village, Melur Taluk, Madurai. The said writ petition was allowed by a Division Bench of this Court, by order, dated 06.08.2014, directing the District Collector, Madurai, to protect and preserve the water bodies in question. The relevant portion from the above order is extracted as under: -

“32. As seen from the affidavit as well as the writ petition, we are now concerned in this public interest litigation only with four survey numbers. The first is Survey No.811, on which there was admittedly a



lake known as "Muruganeri" or "Murugakone Kanmoi". The second is the land in Survey No.805, on which there is another water body known as Puthukanmoi. The third and fourth are the lands in Survey Nos.815 and 819, on which there is a tank known as Nayakankulam Kanmoi.

33. Keeping the above survey numbers in mind, if we now get back to Schedules A to D of the order of the Settlement Tahsildar dated 02.02.1970, it can be seen that Survey No.805 measuring an extent of acres 21.81, is included in Schedule B, for which the patta was directed to be granted in favour of the three sons of Umar Salai Mohammed Sait. Survey No.811 is in Schedule C and the measurement is given as acres 8.54. It is indicated to be a tank. Survey No.815/2 is included in Schedule D that has been allotted to the Pallivasal. Survey No.819 is included in Schedule B to the order of the Settlement Tahsildar dated 02.02.1970 and it is of the extent of about 16 acres that stood in the name of V.M.Veeranan Ambalam.

34. Out of the above lands, the seventh respondent is admittedly concerned with the land of the extent of 8.54 acres in Survey No.811/1 to 4; the land of the extent of 21.81 acres in Survey No.805/1, 2 and 3, and the land of the extent of about 60 acres located in Survey No.810.

... ..

49. In the case on hand, the property in question was admittedly a tank even at the time when the Settlement Tahsildar granted ryotwari patta on 02.02.1970. On the date on which ryotwari patta was granted, Section 3(b) had not been amended to include even private tanks and ooranies. This is why patta was granted in favour of the predecessors in title of the seventh respondent, as though the land is a ryoti land.



However, after the amendment to Section 3(b) and insertion of Section 10-A, even private tanks and ooranies were taken out of the purview of ryoti lands and ryotwari patta. In such circumstances, when the nature of the land in question is not in dispute, the seventh respondent cannot escape the consequences flowing out of the amendment under Act II of 1976.

50. Lastly it is contended by Mr.G.Masilamani, learned senior counsel for the seventh respondent that the amendment introduced under Act II of 1976 cannot take away vested rights created by the proceedings of the Tahsildar, much before the amendment. According to the learned senior counsel, the amendment can at the most be applied prospectively.

51. But, we do not think so. A careful look at the Tamil Nadu Act II of 1976 would show that it amended three enactments, namely (i) Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, (ii) Tamil Nadu Leaseholds (Abolition and Conversion into Ryotwari) Act, 1963, and (iii) Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. In all the three enactments, new provisions were inserted so as to include private tanks and ooranies within the purview of the lands which vested with the Government and also to cancel the ryotwari pattas already granted in respect of private tanks. The provisions of the Amendment Act are not under challenge before us. Therefore, the cancellation of patta under the Amendment Act is a natural consequence from which the seventh respondent or his predecessors in title cannot escape.

52. In view of the above, the writ petition is allowed and the



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respondents 1 to 4 are directed to protect and preserve the tanks in question, after issuing notices and giving an opportunity of hearing to the persons who are in possession thereof, within a period of 12 weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, M.P.Nos.1 and 2 of 2013 are closed."

31.Though the above public interest litigation was disposed of as early as on 06.08.2014, by issuing a direction to the Revenue officials to preserve those water bodies, no action was taken by the Revenue officials. In this circumstances, Gopalakrishnan had filed another writ petition before this Court in WP(MD)No.22360 of 2018, as a party-in-person for the same relief. In that writ petition, Myself along with Hon'ble Mr.Justice P.N.PRAKASH, passed an interim order on 29.03.2019 as under:-

"Heard Mr.M.Gopalakrishnan, party-in-person, Mr.M.Murugan, learned Government Advocate (Civil Side) for the respondents 5 & 6, Mr.T.Sakthikumaran, learned counsel representing Mr.A.Thirumurthy, learned counsel for the seventh respondent and Mr.C.M.Arumugam, learned counsel for the eighth respondent.

2. It is the case of Gopalakrishnan that the respondents 7 and 8 have encroached into Puthukulam Kanmoi, Murugakone Kanmoi and Nayackankulam Kanmoi, situated at A.Vallalapatti Village, Melur Taluk, Madurai District and therefore, the present public interest litigation has been filed to remove the encroachments.



3. Admittedly, this is a second round of litigation on this matter.

Earlier, Gopalakrishnan filed W.P.(MD) No.8286 of 2012 for similar reliefs, which was heard by a Division Bench of this Court (V.RAMASUBRAMANIAN and V.M.VELUMANI, J.J.) and final orders were passed on 06.08.2014. It may be appropriate to extract Paragraph Nos.32, 33 and 34 of the said order hereunder:

“32. As seen from the affidavit as well as the writ petition, we are now concerned in this public interest litigation only with four survey numbers. The first is Survey No.811, on which there was admittedly a lake known as “Muruganeri” or “Murugakone Kanmoi”. The second is the land in Survey No.805, on which there is another water body known as Puthukanmoi. The third and fourth are the lands in Survey Nos.815 and 819, on which there is a tank known as Nayakenkulam Kanmoi.

33. Keeping the above survey numbers in mind, if we now get back to Schedules A to D of the order of the Settlement Tahsildar dated 02.02.1970, it can be seen that Survey No.805 measuring an extent of acres 21.81, is included in Schedule B, for which the patta was directed to be granted in favour of the three sons of Umar Salai Mohammed Sait. Survey No.811 is in Schedule C and the measurement is given as acres 8.54. It is incicated to be a tank. Survey No.815/2 is included in Schedule D that has been allotted to the Pallivasal. Survey No.819 is included in Schedule B to the order of the Settlement Tahsildar dated 02.02.1970 and it is of the extent of about 16 acres that stood in the name of V.M.Veeranan Ambalam.



34. Out of the above lands, the seventh respondent is admittedly concerned with the land of the extent of 8.54 acres in Survey No.811/1 to 4; the land of the extent of 21.81 acres in Survey No.805/1, 2 and 3, and the land of the extent of about 60 acres located in Survey No.810."

4. Finally, the Division Bench issued the following directions in Paragraph No.52:

"52. In view of the above, the writ petition is allowed and the respondents 1 to 4 are directed to protect and preserve the tanks in question, after issuing notices and giving an opportunity of hearing to the persons who are in possession thereof, within a period of 12 weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, M.P.Nos.1 and 2 of 2013 are closed."

5. Pursuant to the said order, the Commissioner of Land Administration passed an order dated 19.05.2015 directing the Settlement Officer, Chennai, to invoke Section 10(A) of the Tamil Nadu Minor Inams (A & C.R.) Act (Act 30 of 1963) and cancel the patta as proposed by the District Collector, Madurai (first respondent), in his letter dated 17.10.2014. Thus, from a reading of the order dated 19.05.2015, it is evident that after the orders passed by the Division Bench of this Court, the District Collector, Madurai (first respondent), has identified the encroachments in the above mentioned three Kanmois and submitted a report to the Commissioner of Land Administration, pursuant to which, the order dated 19.05.2015 has been passed directing the Settlement Officer, Chennai, to cancel the patta. Accordingly, the



Settlement Officer, by order dated 28.07.2016, has cancelled the patta that was issued to K.Thilagavathy, K.Thirunavukarasu, T.Banumathi and A.Mohamed Kamaruthen, in respect of the following lands that were identified as encroachments in the above mentioned three Kanmois:

<i>Survey No</i>	<i>Sub Division</i>	<i>Extent (Hectares)</i>	<i>Classification</i>
<i>805</i>	<i>2</i>	<i>2.21.0</i>	<i>Punjai</i>
<i>811</i>	<i>1</i>	<i>0.86.5</i>	<i>Punjai</i>
<i>811</i>	<i>2</i>	<i>0.86.5</i>	<i>Punjai</i>
<i>811</i>	<i>3</i>	<i>0.86.0</i>	<i>Punjai</i>

6. After the cancellation of patta, steps were taken by the Revenue Authorities to remove the encroachments. While that being so, the seventh respondent presented certain documents for registration before the Sub Registrar, Melur, in respect of the patta lands belonging to him, which did not fall within the survey numbers relating to the encroachments in the above mentioned three Kanmois. Since the Sub Registrar had refused to register the documents, the seventh respondent filed W.P.(MD) No.21291 of 2016 for a mandamus to the Sub Registrar, Melur, to register the documents presented by him.

7. The learned Single Judge (V.PARTHIBAN, J.) heard either side and by a detailed order dated 29.10.2018 has observed that the encroachments in the above mentioned three Kanmois have been identified pursuant to the directions issued by the Division Bench in W.P.(MD) No.8286 of 2012 and there is no justification in the Sub Registrar not registering the documents that were presented by the petitioner therein (seventh respondent herein), since the survey numbers mentioned in the documents were outside the purview of the



encroachments in the above mentioned three Kanmois.

8. Under normal circumstances, if a person is aggrieved by the order of the Single Judge, a writ appeal should have been preferred before the Division Bench, after obtaining special leave, where the appellant was not a party before the Single Judge. Instead of resorting to that, the petitioner has filed the present public interest litigation contending that the respondents 7 and 8 have encroached into the above mentioned three Kanmois.

9. The District Collector, Madurai (first respondent) has filed a detailed counter affidavit dated 10.01.2019 narrating the entire sequence of events that had taken place after passing of the orders by the Division Bench and in Paragraph No.10, he has stated as follows:

“10. It is submitted that as per the Survey report, the lands owned by the 7th respondent, in S.Nos.8/2, 8/3, 21/3A, 21/4 and 21/5B in Kidaripatti village, in Melur Taluk of Madurai District are not included in the Kanmois.”

10. In view of the above, the order of status quo that was passed by this Court in this public interest litigation stands vacated.

11. However, in Paragraph No.8(g) of the counter affidavit, the District Collector, Madurai (first respondent) has referred to the steps that have been taken by the Revenue Authorities to clear certain encroachments in Naykkankulam Kanmoi, but, the details of the steps have not been set out. Similarly, in Paragraph No.8(i), it is stated that steps are being taken to remove the blocks in the channel for uninterrupted flow of water, but, it is not known as to whether the blocks have been removed as of now and in Page No.13 of the counter



affidavit, the District Collector has referred to the steps that have been taken for removal of the encroachments made by one Sathish Gurudev, but, no further details have been given therein. Therefore, we direct the District Collector, Madurai (first respondent) to remove the encroachments referred to by him in Paragraph No.8(g), clear the blocks in the channel referred to in Paragraph No.8(i) and remove the encroachments made by Sathish Gurudev referred to in Page No.13 of the counter affidavit and file a report before this Court on the next hearing date.

12. In view of we vacating the order of status quo, there should not be any impediment for the Registration Authorities to follow the orders passed by learned Single Judge in W.P.(MD) No.21291 of 2016 and register the documents in respect of survey numbers that do not fall within the water bodies.

13. We are conscious of the fact that on account of the elections to the Parliament, the District Collector, Madurai (first respondent) cannot be mulcted with such responsibilities at this juncture. Therefore, we adjourn the case by eight weeks.

14. Post after eight (8) weeks."

32.It appears that pursuant to the earlier orders of this Court, as referred above, the Commissioner of land Administration has passed an order by issuing directions in Letter K1/1327457/2021, dated 03.09.2021 to restore and protect the water bodies and its supply channels mentioned in the above writ petitions. This order of the Commissioner of land



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Administration was not implemented by the authorities concerned.

Therefore, Gopalakrishnan has once again knocked the doors of this Court by way of another litigation in WP(MD) No.23682 of 2024, seeking a mandamus to direct the Commissioner of Survey and Settlement, the District Collector and the District Revenue Officer, Madurai, to implement the order of the Commissioner of Land Administration in Letter K1/1327457/2021, dated 03.09.2021. In that writ petition, the learned Additional Government Pleader has made submissions based on the instructions that the Murugakone Kanmoi in S.Nos.811/1 to 4, Puthukanmoi @ Sinnankulam in S.Nos. 815 & 819 of A.Vallalapatti Village, Melur Taluk and its supply channels to these tanks in S.Nos.813 & 814 of A.Vallalapatti Village, Melur Taluk, Madurai District and S.Nos.9,8,7 & 21 of Kidaripatti Village, Melur Taluk, Madurai are classified as "water bodies" and the alleged encroachments in the above mentioned survey numbers would be removed within four weeks from the date of receipt of a copy of that order. Based on the above submissions made on behalf of the Government, the third writ petition filed by Gopalakrishnan in WP(MD) No.23682 of 2024 was disposed of, by the Division Bench of this Court, by an order, dated 08.11.2024.



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33. But the fact remains that even after the order of this Court, dated 08.11.2024, the encroachments have not been removed by the authorities and therefore, Gopalakrishnan has filed a Contempt Petition in Cont.P(MD)No.412 of 2025 that the orders of this Court has not been complied with and the same is pending. In fact, it has been pointed out by the petitioners that a portion of land, which has already been declared as a waterbody by the Division Bench of this Court, has been purchased by an IAS Officer, in the name of his wife.

34. Perusal of the above judgments and the materials placed before this Court reveal that Gopalakrishnan was agitating the issue of encroachments in three water bodies in Vellalapatti Village from the year 2012. It appears that several acres of land were encroached by one Kusalavan. He has also created subsequent documents. This Court has also passed elaborate orders as to the manner in which the encroachments have been made, directed the District Administration to remove the encroachments as early as in the year 2014. An outer time limit was also fixed as eight weeks. But the fact remains that the encroachments have not been removed so far. In this background, the petitioners allege that they are



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being targeted for having raised the cause of protection of waterbodies, which cannot be brushed aside *in toto*.

35.The factual matrix indicates that several criminal cases came to be registered soon after the PIL proceedings and the subsequent enforcement action. The petitioners have set out the sequence to show that while their complaints either remained at the stage of CSR or were closed without due enquiry, counter-cases and later proceedings against them progressed with unusual promptitude. Whether this sequence establishes mala fides is not a matter that this Court is required to conclusively determine at this stage; however, the close temporal proximity between the PIL enforcement and the registration of multiple cases against the petitioners' side is a circumstance that cannot be ignored, while assessing the need for an independent investigation in some of the matters before this Court.

36.Coming to the merits of the cases on hand, the materials disclose that CSR No.103 of 2020, pertaining to Gopalakrishnan's complaint of destruction of crops, was closed with the observation that the parties could not be secured and that the CSR had remained pending beyond six months. However, the records / CD file does not indicate any examination of the



defacto complainant or any field verification of the alleged damage. The fact that a counter-case was registered immediately in Crime No.39 of 2020 on the date of the occurrence, while the petitioner's own complaint did not progress beyond the CSR stage, is a circumstance that assumes relevance in assessing the grievance of differential treatment. In fact, in the counter case, after investigation, final report was filed and taken on file in Spl.SC.No.25 of 2021 before the PCR Court, Madurai.

37.To be noted, the counter case in Crime No.39 of 2020 was registered not only against Gopalakrishnan, but also against his family members. Some of them, viz., accused nos.6 to 10, 12, 13, have approached this Court in Crl.OP(MD)No.17148 of 2021 to quash the criminal proceedings pending against them. This Court has elaborately discussed that application and by order dated 21.02.2022, quashed the proceedings in Spl.SC.No.25 of 2021, insofar as the accused nos.6 to 10, 12, 13 are concerned, as under:-

"5.The first accused Gopalakrishnan and Kusalavan, the father in law of the defacto complainant hail from the same village. Gopalakrishnan alleged that Kusalavan had encroached the water bodies. He filed WP(MD)No.8286 of 2012 seeking their retrieval. The Hon'ble Division Bench of the Madurai Bench of the Madras High Court vide



order dated 06.08.2014 allowed the said writ petition after holding that patta had been granted in favour of Kusalavan in respect of some water bodies and that they are void. The District Collector and other revenue authorities were directed to protect and preserve the tanks in question after issuing notices and giving an opportunity of hearing to the persons who are in possession thereof. Kusalavan filed WP(MD)No.21219 of 2016 alleging that sale deeds presented by him in respect of properties not falling within the water bodies are not being registered. The said writ petition was allowed on 29.10.2018 and the Sub Registrar, Melur Taluk was directed to register the petition mentioned sale deeds. Interestingly, Gopalakrishnan was not made a party to the writ petition. Instead of filing a third party writ appeal, Gopalakrishnan filed another Public Interest Litigation in WP(MD) No.22360 of 2018. Interim order was granted originally but later vacated on 29.03.2019. However, the revenue authorities were directed to clear the encroachments in Nayakkankulam Kanmoi and the channel flowing in the village. The battle between the two appears to be going on.

6.Apart from this issue, the parties are at loggerheads over the conferment of honours in a village festival. Writ petitions and criminal original petitions have been filed almost every year since 2015. Some of the order copies have also been enclosed in the typed set of papers.

7.It is in this background, the occurrence in question had taken place. Pandiammal, the first petitioner herein is the mother of Gopalakrishnan. She is aged about 75 years. The third petitioner Azhagammal is the wife of the second accused Karmegam. The seventh petitioner Jeyalakshmi is the wife of the fourth accused Malaichamy. The



petitioners 2, 4 and 5 are also womenfolk and are close relatives of the first accused. Kusalavan belongs to Pillaimar community. The petitioners would assert that they never knew that the defacto complainant Lakshmanan, son-in-law of Kusalavan belongs to Scheduled Caste. According to them, the son-in-law has been projected to be in the forefront so as to invoke the provisions of the SC&ST Act and to prevent Gopalakrishnan from retrieving the water bodies of the village for public welfare.

8.The occurrence had taken place on 24.02.2020. Two persons have suffered grievous injuries. There was also a counter complaint from Gopalakrishnan. That the occurrence took place admits of no doubt. The only question is whether the present petitioners were parties to the occurrence. The seventh petitioner Jeyalakshmi is not referred to in any of the statements recorded under Section 161 of Cr.PC. The sixth petitioner Thirumalai is referred to only in the statements of Machakalai and Uthiran (LW.8 and LW.9). But the injured witnesses, namely, Lakshmanan, Suresh and Dharmaraj do not implicate him. Since there is a bitter rivalry between Gopalakrishnan and Kusalavan since 2012, if the petitioners herein were also parties to the occurrence, certainly, they would have been named in the FIR itself. The presence of the womenfolk, three of whom are the wives of the respective accused could not have been omitted to be noticed. The occurrence had taken place at 17.30 hrs on 24.02.2020. The FIR was registered only at 21.45 hrs. The injured were taken to the Government Hospital and thereafter shifted to Meenakshi Mission Hospital, a famous medical institution. The occurrence had taken place on the day of survey. Certainly, Kusalavan



and other relatives would have been present, when the police recorded the statement of the defacto complainant. The expression ' and others ' has been employed after naming five specific individuals only for the purpose of implicating all the family members. If the womenfolk had also participated in the crime, their presence would be too glaring to be ignored or omitted. If a crime had taken place suddenly and information is lodged in the aftermath, certainly omission of names and particulars would in no way affect the prosecution case. But that is not the case here. Atleast three writ petitions and four criminal original petitions involving Gopalakrishnan / Kusalavan were filed before the Madurai Bench of the Madras High Court alone.

9. The Hon'ble Supreme Court in State of Haryana V. Bhajanlal (1992) Suppl.(1) SCC 335 held that a criminal prosecution can be quashed, inter-alia, in the following circumstances:-

“(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused ...

... (7) Where a criminal proceeding is manifestly attended with mala fide and / or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge ... ”

The above parameters are clearly applicable to the case on hand. The role attributed to Pandiammal, 75 year old mother of Gopalakrishnan is inherently improbable. The parties are well known to



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each other. There is no way the names of the petitioners could have been omitted, if they had also attacked the victims along with the named accused. I am more than satisfied that the petitioners have been implicated out of sheer mala fides and to wreck vengeance on Gopalakrishnan. The continuance of the prosecution is not warranted. The impugned proceedings are quashed as far as the petitioners are concerned. The named accused 1 to 5 will not take advantage of this order. They have to contest the trial entirely on merits."

38.In these circumstances, Gopalakrishnan filed yet another complaint in Crl.MP.No.4054 of 2024, which was taken on file on 30.10.2024, for the first incident – damaging the agricultural field. This application was made on the ground that the respondent Police had failed to conduct the investigation, as directed by the learned Judicial Magistrate, Melur, vide order dated 12.07.2024, in Crl.MP.No.4339 of 2023 and sought a proper investigation. It appears that little progress has been made in Crl.MP.No.4054 of 2024, and till date, only the statement of the petitioner, who is the *defacto* complainant, has been recorded. It is also pertinent to note that the very same Magistrate Court had earlier committed a serious oversight by wrongly returning the petitioner's complaint dated 26.03.2025, which is the subject matter of Crl.OP.(MD)No.10189 of 2025, and had also



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misplaced the case bundles relating to the protest petition in Crime No.114 of 2021. Considering the overall circumstances and the manner in which the Judicial Magistrate, Melur has dealt with the petitioner's complaints, this Court is inclined to transfer the proceedings in Crl.MP.No.4054 of 2024. This Court is also deeply dissatisfied with the conduct of the respondent Police in enquiring into the petitioner's complaints. Despite the Judicial Magistrate, Melur having clearly recorded that the earlier enquiry in CSR.No.103 of 2020 was inadequate and having directed a proper enquiry, the respondent Police have once again filed a closure report without even examining the *defacto* complainant or his family members.

39.With regard to Crime No.114 of 2021 [Gopalakrishnan's relative got attacked], this Court, considering the nature of injuries, has rejected the anticipatory bail application filed by one of the accused in Crl.OP(MD)No. 8323 of 2021, by order dated 09.07.2021, as under:-

"6. As narrated above, the case of the defacto complainant is that due to the active involvement of the defacto complainant in protecting water bodies with and in other social issues, the accused persons engaged hooligans and attacked him. Perusal of the photos filed by the defacto complainant shows that the defacto complainant suffered extensive deep cut injuries. From the sight of the photos the injuries



seems grievous and terrifying.

7. Considering the nature of serious injuries suffered by the defacto complainant and also the objection of the learned counsel for the defacto complainant that unless the accused persons are arrested and interrogated, the name and identity of the assailants cannot be identified, this Court is not inclined to grant anticipatory bail to the petitioner."

40.Considering the manner in which the investigation in this case was being conducted, this Court, in Crl.OP(MD)No.8843 of 2021, by order dated 11.08.2021, transferred the investigation in Crime No.114 of 2021 from the Melavalavu Police to the Deputy Superintendent of Police, Melur, by holding as under:-

"7. From the perusal of CD file, this Court came to know that not only the investigation was not undertaken in the proper direction, but, possibility of screening the real offenders can not be ruled out. So, any further discussion, on this point, it leads to impair the further investigation. So, this Court is not discussing about the facts that has been set out in the CD file. This Court has not satisfied the manner in which, the investigation has undertaken sofar. The photographs produced by the petitioners shows that he sustained deep and grievous injuries. He has been immediately taken to the hospital and entries was made in the private hospital, Madurai as well as Government Hospital, Melur shows that the injuries are not self inflicted injuries. The injuries



were caused by the some persons. The occurrence said to have took place at 03.00 p.m and he has been admitted in the hospital at 03.30 p.m. Within half an hour, he has been taken into the hospital. At that time, he has given a statement that he was assaulted with knife. The injuries are stated to be simple as per the wound certificate issued by the Meenakshi Mission Hospital, Madurai. But all the injuries are lacerated injuries measuring more than 5 cm x 5 cm. Injuries have been found on the right and left thigh regions as well as the spinal card region also.

8. In what circumstance, transfer of investigation can be effected has been decided in a number of judgments, more particularly, in the case of Kashmeri Devi Vs Delhi Administration & Another 1988 AIR 1323, the Hon'ble Supreme Court has pointed out that transfer of investigation, can be ordered, if any attempt is made by the Investigating Agency to shield the real offenders and the police acted in a partition manner. So, what has been set out by the Hon'ble Supreme Court is squarely applicable in the facts and circumstances of this case. Perusal of entire CD file shows the attitude of the Investigating Officer.

9. I am of the considered view that this is a fit case to transfer the investigation from the file of the second respondent herein to some other Police Officer.

10. So, the investigation is transferred to the Deputy Superintendent of Police, Melur. ..."

41.However, the transferee officer, after investigation, filed a closure report as 'mistake of fact'. No doubt, filing of final report / closure report is



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within the domain of the investigative agency, but, coupled with the later disappearance of the protest petition filed in this regard from the Judicial Magistrate Court, Melur, this matter needs consideration. The bundle has now been traced following this Court's intervention. However, the period during which the protest petition could not be taken up due to the absence of the file is an undisputed fact. The disappearance and delayed restoration of case records, regardless of the reason, has undeniably stalled the adjudication of the protest petition.

42.As regards CSR No.204 of 2024 [house break-in], the record shows that the petitioner, while in custody, furnished a detailed complaint to the Station House Officer and to the Superintendent of Police, that his house has been broken open and materials, viz., educational certificate, identity cards, pass book, cheques, property documents, gold ornaments, bike and case files have been taken away. Of these materials, the bike was recovered and handed over by the Inspector of Police, Melavalavu Police Station. This complaint was duly forwarded by the Superintendent of Prisons. Notwithstanding this, the CSR was closed with the remark "not sent through proper channel".



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43. Admittedly, Gopalakrishnan is in prison. If anything has to be addressed from the Central Prison, either to the Police Station or to the Superintendent of Police, it can be done only through the Superintendent of Prison. The Superintendent of Prisons, in his communication dated 22.08.2025, has stated that complaint was routed through their office. Hence it is clear that the complaint was indeed sent through proper channels. In such a circumstance, it is baffling as to how the complaint was closed on the ground that it was not sent through proper channels.

44. Making the matters worse, the subsequent complaint made by Gopalakrishnan in this regard under Section 156(3) CrPC was returned by the learned Judicial Magistrate on the basis of Section 173(4) of the BNSS. It is a sorry state of affairs that the Magistrate has taken the same analogy as that of the Police to return the complaint.

45. Neither the police nor the Judicial Magistrate has taken into account the vital fact that Gopalakrishnan, while being confined in prison, specifically complained that the encroachers / proposed accused had taken advantage of his incarceration, trespassed into his house, and removed



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valuable, including important court documents. The contention that the complaints were sent to the Officer-in-Charge and the Superintendent of Police on the same day, thereby violating Section 173(4) BNSS, is untenable. Neither the CrPC nor the BNSS prescribes any waiting period between such representations. The very object of requiring the complainant to approach the police hierarchy is only to ensure that the alternative remedy is exhausted. This procedural requirement cannot be interpreted in a hyper-technical manner so as to defeat the complainant's substantive right to registration of an FIR when the complaint discloses the commission of cognizable offences. Furthermore, once the complaint *prima facie* reveals a cognizable offence, the Judicial Magistrate is duty-bound to direct registration of an FIR under Section 156(3) CrPC. In fact, this Court has come across numerous instances where Superintendents of Police / Commissioners of Police mechanically receive complaints and merely forward them to the local police stations. However, in the present case, the petitioner's complaint alleging theft of valuable and court documents, committed by exploiting his confinement in jail, has been handled by both the police and the Judicial Magistrate in a manner that nullifies the very purpose of his complaint.



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46.Of course, this was later acknowledged by the Magistrate to be a mistaken view, for which an explanation has been submitted. These aspects, taken together, indicate that the complaint relating to the alleged break-in during the petitioner's custody did not receive the procedural attention it ought to have received.

47.Turning to Crime No.202 of 2022 [murder case], there are two applications pending before this Court. One is filed by the minor accused to quash the proceedings pending against him in JC.No.56 of 2024 on the file of the Juvenile Justice Board, Madurai and the other is filed by some of the accused persons to quash the proceedings pending against them in SC.No. 107 of 2025 on the file of the IV Additional District and Sessions Court, Madurai, in connection with Crime No.202 of 2022.

48.The prosecution case is that one Suresh has been murdered near Sampranipatti Mandhai on 18.12.2022. On the complaint of one Jeyakousalya [wife of the deceased Suresh], the case in Crime No.202 of 2022 was registered by the respondent Police. The complainant Jeyakousalya lodged this complaint on the basis of information provided to her by one Prakash, who received the information from one Ayyanar. The



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deceased Suresh is a resident of Madurai and was running a travels business. He is having lands at Sampranipatti village. There was a dispute between the deceased and the accused one Gopalakrishnan and it is alleged that Suresh was attacked by Gopalakrishnan and others on 24.02.2020, for which a case in Crime No. 39 of 2020 was registered already.

49.On 18.12.2022, Suresh after visiting his lands and returning to Madurai stopped his vehicle near Sampranipatti Mandhai and was standing. At that time, Gopalakrishnan along with eight others surrounded him, attacked him with Aruval and caused his death. This incident was said to have been witnessed by one Lavanya, wife of Prakash who informed the *defacto* complainant. The case was registered against Gopalakrishnan and eight others in Crime No.202 of 2022 for the offences under Sections 147, 148, 302, 341 and 506 (2) of the IPC.

50.The other relatives of Gopalakrishnan have also been added as accused on 03.01.2023. The informant Prakash is the watchman to the lands of one Kusalavan and the eyewitness Lavanya is his wife. Apart from Lavanya, one Chithra was also shown as an eyewitness. She is also the wife of one Machakalai, another watchman of Kusalavan.



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51. Though the case was registered based on the information provided by two eyewitnesses of the same village and the names of the accused being confined to nine persons in the FIR, the minor Krishnakanth has been added as accused on 03.01.2023. He was arrested along with the women folk of Gopalakrishnan's family at Karaikudi on 03.01.2023. Thereafter, a further statement has been recorded under Section 161(3) CrPC from the *defacto* complainant on 05.01.2023 as if the minor was present at the place of occurrence and kicked the deceased. This minor accused was studying 10th standard at the time of the crime. The eyewitnesses have not assigned any reasons in their further statements for omitting the name of this minor accused while giving their original statements under Section 161(3) CrPC on 19.12.2022. Based on this vague statement, the minor, a student has been added as an accused. Apart from the further statement recorded from the *defacto* complainant, there is no other materials connecting this minor accused to the crime.

52. Considering the materials on record, this Court is of the view that the minor petitioner has been falsely implicated after 15 days from the date of occurrence based on a vague statement. Therefore, this Court is of the



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view that allowing the proceedings to continue as against the minor petitioner would be an abuse of the process of law.

53.Learned Senior Counsel for the *defacto* complainant as well as the Learned Government Advocate (Crl. Side) appearing for the respondent police have not raised any serious objections for quashing the proceedings pending as against the minor accused. Hence, this Court is inclined to quash the proceedings as against the minor petitioner in JC.No.56 of 2024 on the file of the Juvenile Justice Board, Madurai.

54.Insofar as Crl.OP(MD)No.10249 of 2025 is concerned, the petitioners are accused nos.3, 6, 9 and 11 in SC.No.107 of 2025 on the file of the IV Additional District and Sessions Court, Madurai. The third accused is the son of the second accused; sixth accused is the wife of the fifth accused; ninth accused is the wife of the second accused; and eleventh accused is the wife of the seventh accused.

55.According to them, they have been falsely implicated in this case due to enmity prevailing between the family of Kusalavan and Gopalakrishnan. It is alleged that the family members of Gopalakrishnan



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have been roped in as accused in Crime No.202 of 2022 on the advice of one Lakshmanan who is enjoying the waterbodies in Survey Nos.811/1 to 4, 805/1, 2 & 3, 815 and 819 of A.Vallalapatti Village, which were originally classified as Minor Inams to the extent of about 456.31 acres. They highlighted the earlier orders of the Division Bench of this Court in WP(MD)No. 8286 of 2012 and the legal fight undertaken by Gopalakrishnan to remove the encroachments on the waterbodies by filing repeated writ petitions before this Court.

56.Learned Counsel for the petitioners, in support of his plea, have pointed out the following infirmities in the investigation conducted by the respondent Police in Crime No. 202 of 2022:-

(1) The deceased is a resident of Madurai. He visited his land in Sampranipatti and while returning, he casually stopped his car near the place of occurrence.

(2) There are three houses near the place of occurrence. None of the residents of these houses were cited as an eyewitness. Instead, the wife of Prakash, who is a watchman of Kusalavan [the encroacher] has been cited as a witness.

(3) The *defacto* complainant has lodged the complaint on the information provided by one Prakash, husband of one eyewitness Lavanya. However, according to the statement of Prakash / the



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informant, he was informed about the incident by one Ayyanar.

Though Prakash was examined on 19.12.2022, this Ayyanar was examined only on 05.01.2023, 17 days after the date of occurrence.

(4) Though it has been projected as if two persons were eyewitnesses to the occurrence, the Investigating Officer has availed the services of dog squad. It is not mentioned for what purpose the services of the dog squad was availed and the Investigating Officer has not provided any clarification in this regard.

(5) Though two persons have been shown as eye witnesses in the final report, Lavanya wife of one Prakash alone has been shown as eyewitness in the inquest. It is to be noted that as per Prakash, he was informed about the incident through one Ayyanar and not by Lavanya.

57.Learned Counsel for the petitioners has also raised certain other points, which can only be considered during the trial.

58.On the infirmities pointed out by the petitioners' Counsel, this Court has called for and also perused the CD file in Crime No.202 of 2022 on the file of the respondent Police to ascertain the manner in which investigation has been carried out. Upon perusal of the same, apart from the grounds argued by the petitioners, this Court finds that:-



(1) The postmortem on the deceased was conducted on 19.12.2022 at about 12.00 PM and as per the opinion of the Doctor, the deceased appears to have died of severe head injury about 24 - 48 hours prior to the commencement of the postmortem. According to the prosecution, the occurrence is said to have taken place on 18.12.2022 at 06:30 PM. Hence, as per the opinion of the Doctor, there is a difference in the time of occurrence.

(2) The Doctor has noted the following external injuries on the deceased when the postmortem was carried out:

“(i) Laceration 27x15x10cm over right parieto occipital / temporal scalp with skull opened and brain exposed fully.

(ii) Penetrated laceration at left upper chest

Entry wound 3x1x1cm over left upper chest

Exit wound 2x1x1cm over 10cm from the entry wound.

Chest wall intact

(iii) Laceration 8x5x2cm over centre of forehead with avulsion upto left eye / root of nose

(iv) Abrasion in left lumbar region”

The prosecution case is that the accused persons surrounded the deceased and four accused persons have used Aruval to attack the deceased. But, there are no corresponding injuries found on the deceased for the use of such Aruval as per the findings in the postmortem. Hence, it is clear that the investigation in Crime No. 202 of 2022 has not been carried out properly.



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(3) The Investigating Officer has called for the Call Detail Records (CDR) and tower location for certain mobile numbers, but the same has not been followed up and verified. The Investigating Officer has not taken any serious steps to find out if the accused were present at the place of occurrence at the time of occurrence.

59.The infirmities in the investigation noted above, coupled with the other circumstances discussed above, warrants the interference of this Court in Crime No.202 of 2022. However, the investigation has been completed and now the case is pending in SC.No.107 of 2025 on the file of the IV Additional District and Sessions Court, Madurai. If the trial is allowed to proceed with these infirmities, it would not only affect the petitioners before this Court but also the case of the prosecution.

60.To be noted, the petitioners 2, 3 & 4 in Crl.OP(MD)No.10249 of 2025 are the womenfolk of the family of Gopalakrishnan. They were similarly implicated in Spl.SC.No.25 of 2021 which was filed in relation to Crime No.39 of 2020 as accused and this Court in WP(MD)No.17148 of 2021, vide order dated 21.02.2022, has already quashed the proceedings pending against them that they have been unnecessarily roped-in. At the



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same time, in the present case, the petitioners were named in the initial FIR itself alleging an overtact that they have attacked the deceased with aruval, hands and broom sticks. Therefore, this Court is not inclined to quash the proceedings against them *in toto* in Crime No.202 of 2022.

61.Considering the overall circumstances, the manner in which the other litigations have been handled and considering the averment by the learned Counsel for the petitioners that Gopalakrishnan and his entire family have been implicated in this criminal case in order to prevent Gopalakrishnan from pursuing the cause of removal of encroachments from the waterbodies - Murugkone Kanmoi, Puthukanmoi and Nayakankulam Kanmoi, this Court deems it fit to order for further investigation in Crime No.202 of 2022 on the file of the respondent Police in order to ascertain the truth.

62.It is well settled that this Court may order the transfer of an investigation to an independent agency even after the filing of the charge sheet, where the investigation is shown to be unfair, incomplete, or influenced by extraneous considerations. This Court is of the considered view that the present case falls squarely within that category and that the



entire episode requires reinvestigation by an impartial and independent investigating agency.

63.This Court draws support from the decision of the Hon'ble Supreme Court in *Vinay Tyagi v. Irshad Ali* [(2013) 5 SCC 762], wherein, it has been held that the High Courts have the power to direct "further investigation," "fresh," "de novo," or even "reinvestigation" where circumstances so warrant, though this power must be exercised sparingly and with great circumspection. The relevant observations are extracted as under:-

"43. At this stage, we may also state another well-settled canon of the criminal jurisprudence that the superior courts have the jurisdiction under Section 482 of the Code or even Article 226 of the Constitution to direct "further investigation", "fresh" or "de novo" and even "reinvestigation". "Fresh", "de novo" and "reinvestigation" are synonymous expressions and their result in law would be the same. The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has to be exercised by the superior courts very sparingly and with great circumspection."



64. On an overall assessment of the record, this Court holds that

(1) the grievance and handling of CSR No.204 of 2024 [house break-in], including its closure on a ground inconsistent with the forwarding endorsement of the Superintendent of Prisons, coupled with the subsequent mistaken return of the petition filed u/s.156(3) CrPC, requires a fresh and independent investigation.

(2) the disappearance of the case papers filed in respect of the protest petition in Crime No.114 of 2021 [relative of Gopalakrishnan got attacked], though now restored, resulted in a prolonged impediment to the progress of the protest petition, warranting supervisory intervention to ensure its expeditious disposal.

(3) CSR No.103 of 2020, and the connected proceedings in Crl.MP.No. 4054 of 2024 [damage to agricultural field], reveal an enquiry that did not conform to the directions earlier issued by the Magistrate and require a fresh and independent investigation.

(4) as regards the minor petitioner in JC.No.56 of 2024, there is no material implicating him, and the *defacto* complainant as well as the State does not oppose quashing of the proceedings as against him.

(5) with respect to the petitioners facing trial in SC.No.107 of 2025 [Crime No.202 of 2022 – murder case], the materials on record, including



the nature of witnesses cited and the postmortem injuries, coupled with the entire sequence of events, raise concerns which justify directing further investigation by an independent agency so that the trial may ultimately proceed on a complete and lawful factual foundation.

65.This Court is conscious that fresh investigation or reinvestigation or quashing of proceedings is an extraordinary step and must rest on objective material. In the present case, the cumulative circumstances reflected in the file, namely, the background surrounding the PIL, the subsequent spate of criminal cases, delayed investigation, closure of complaints without adherence to basic procedural requirements, disappearance of court records, the judicial orders already quashing proceedings against several co-accused in Spl.SC.No.25 of 2021 [Crime No. 39 of 2020], and the admitted position regarding lack of material against the minor, persuade this Court that limited intervention is warranted to restore fairness and confidence in the investigative process. It is, however, made clear that these observations are confined strictly to the irregularities evident from the record and are not to be construed as any expression on the merits of the allegations forming part of the pending criminal cases.



66. In view of the discussion and findings supra, and having regard to the factual circumstances, the following directions are issued:-

a) Considering the demonstrable lapses in the manner in which the initial enquiries or investigations were carried out, this Court deems it appropriate that these matters shall be entrusted to the CB-CID, Madurai, for independent investigation. Accordingly,

(1) CSR No.103 of 2020 relating to the complaint of destruction of crops, which was closed without examination of the complainant or inspection of the alleged place of occurrence, shall stand transferred to the CB-CID for fresh investigation. As a consequence, the proceedings in CrI.MP.No.4054 of 2024 on the file of the learned Judicial Magistrate, Melur, is closed.

(2) CSR No.204 of 2024 arising out of the complaint forwarded from prison regarding the alleged break-in during Gopalakrishnan's custody, which was closed erroneously as "not sent through proper channel", shall also stand entrusted to the CB-CID for fresh investigation.



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(3) Crime No.202 of 2022 relating to the murder of one

Suresh shall also stand remitted to the CB-CID for further investigation. In view of the same, the proceedings in SC.No.107 of 2025 on the file of the IV Additional District and Sessions Court, Madurai shall be kept under abeyance till the outcome of the report of the CB-CID.

The respondent police shall hand over all connected papers to the CB-CID, Madurai, forthwith. The DIG, CB-CID, Chennai, shall supervise the investigation / further investigation, as directed and ensure that the same is concluded within a period of four months from the date of receipt of a copy of this order.

b) As regards Crime No.114 of 2021, a closure report has already been filed and the matter is at the stage of protest petition. The disappearance of the case bundle, followed by its restoration, is now addressed by the report of the Chief Judicial Magistrate. Accordingly, the protest petition in connection with Crime No.114 of 2021 shall stand withdrawn from the file of the Judicial Magistrate, Melur, and placed before the Chief Judicial



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Magistrate, Madurai, who shall take up the protest petition and dispose of the same, on merits within two months from the date of receipt of this order.

In the event, if the learned Chief Judicial Magistrate finds that the investigation in Crime No.114 of 2021 has not been conducted properly, then while ordering for further investigation, the same shall be forwarded to CB-CID, Madurai, which has already been entrusted with the other cases by this Court.

c) The proceedings in JC.No.56 of 2024 on the file of the Juvenile Justice Board, Madurai, as against the minor petitioner [Crl.OP(MD)No.10201 of 2025] shall stand quashed.

67.The above directions are issued on the basis of the material placed before this Court and are intended to ensure that the investigation and subsequent judicial processes in these matters proceed in accordance with law. No opinion is expressed on the merits of the allegations in the pending criminal cases.



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WEB COPY In fine, all the criminal original petitions stand disposed of.

Consequently, all the connected miscellaneous petitions stand closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes
gk

28.11.2025

Note:

Mark a copy of this order to

1. The Deputy Inspector General of Police,
CB-CID, Chennai.
2. The Chief Judicial Magistrate,
Madurai.

To

- 1.The IV Additional District and Sessions Judge,
Madurai.
- 2.The Judicial Magistrate,
Melur.
- 3.The Chairman,
Juvenile Justice Board,
Madurai.
- 4.The Superintendent of Police,
Madurai District.



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5.The Superintendent of Prison,
Central Prison,
Madurai.

6.The Deputy Superintendent of Police,
Melur,
Madurai District.

7.The Inspector of Police,
Melavalavu Police Station,
Melur Taluk,
Madurai District.



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B.PUGALENDHI,J.,

gk

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28.11.2025