



W.A(MD)No.1842 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD)No.1842 of 2025

P.Pandiaraj

**... Appellant /
Writ Petitioner**

Vs.

- 1.The Secretary to Government,
Secretariat,
Home Department,
Chennai.
- 2.The Deputy Inspector General of Police,
Madurai Region,
Madurai.
- 3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 4.The Deputy Superintendent of Police,
Srivilliputhur,
Virudhunagar District.
- 5.The Inspector of Police,
All Women Police Station,
Srivilliputhur,
Virudhunagar District.

**... Respondents /
Respondents**



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 17.06.2025 in W.P.Crl(MD)No.191 of 2025 on the file of this Court and allow this Writ Appeal.

For Appellant : Ms.C.Geetha

For Respondents : Mr.A.Kannan
Additional Government Pleader for R.1

Mr.T.Senthil Kumar
Additional Public Prosecutor
for R.2 to R.5

JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The appellant herein was an accused in S.C.No.38 of 2016 on the file of Fast Track Mahila Court, Virudhunagar, Srivilliputhur. He was accused of having committed into offences under Sections 341, 506(i) (3 counts), 345(D) of IPC and Section 7 r/w 8, 11 (iv) r/w 12 of POCSO Act, 2012. The appellant was acquitted vide judgment dated 08.12.2017. Questioning the same, the State filed Crl A(MD)No.276 of 2019. The High Court confirmed the judgment of acquittal on 03.12.2024.

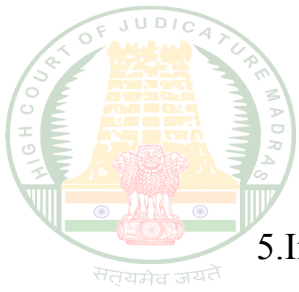


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WEB COPY 3. The appellant thereafter filed W.P(MD)No.191 of 2025 claiming compensation from the State. The learned single Judge dismissed the writ petition vide order dated 17.06.2025 holding that the writ petitioner is having remedy of filing a civil suit for malicious prosecution. Aggrieved by the said order, this Writ Appeal has been filed.

4. A learned Judge of the Hon'ble Delhi High Court (Vikramajit Sen, J.) in ***Shiv Kumar Thakur v. Commissioner of Police*** reported in **2003 SCC OnLine Del 1070** held that the award of compensation, in the writ jurisdiction, can necessarily be given only in cases where there are no disputed questions of facts, which differently stated, means that the dereliction of duty or abuse of powers of officers of any Authority is palpably and patently present. Where a reasonable doubt is possible so far as the manner in which the duty is observed or performed, the grant of compensation should be eschewed.

5. An acquittal or discharge of an accused by itself does not give rise to the presumption of malicious prosecution thereby entitling him to compensation against the State.



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5.In *Bharat Commerce & Industries Ltd. v. Surendra Nath Shukla*

(1965 SCC OnLine Cal 79), the principles pertaining to malicious prosecution were accurately laid down in the following terms:

“7.... In a suit for malicious prosecution, the plaintiff must prove (1) that the defendant prosecuted him, and (2) that the prosecution ended in the plaintiff's favour, and (3) that the prosecution lacked reasonable and probable cause, and (4) that the defendant acted maliciously...”

As regards the third element involving reasonable and probable cause, it was held as follows:

“...It can never be said that the reasonable and probable causes are grounds which must inevitably result in conviction. **If acquittal means that the prosecution has been commenced without any reasonable and probable ground, then it would not have been necessary to say that apart from or in addition to the acquittal the plaintiff, in a suit for malicious prosecution, must prove that the defendant lacks reasonable and probable cause in prosecuting the plaintiff.** A man may be acquitted and yet there may be a reasonable and probable cause for prosecution. This analysis of the legal position shows that the probative value of the evidence or the legal conclusions on the evidence cannot be very relevant in determining whether

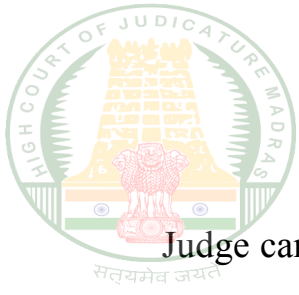


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the accuser has a reasonable and probable cause in prosecuting the plaintiff. It is not necessary that in order to come to the conclusion that the accuser has a reasonable and probable cause, the evidence adduced must be commensurate with the conviction of the accused...”

6.Thus, to succeed in the claim of malicious prosecution, all the four ingredients set out above must be fulfilled. The question whether the prosecution lacked reasonable and probable cause and whether they acted maliciously are questions of fact that require appreciation of evidence. It cannot be inferred from the mere fact of acquittal or discharge. We went through the judgement dated 03.12.2024 made in **CrI.A(MD)No.276 of 2019**. The learned Judge has remarked that despite the inconsistencies in the evidence of the witnesses, the circumstances indicate some sort of misbehavior exhibited by the accused to the victim. We are satisfied that there are disputed questions of facts and the dereliction of duty or abuse of powers of officers of any Authority is not palpably and patently present in order to invoke the extraordinary jurisdiction of this Court.

7.We consciously refrain from making any observations on the merits of the appellant's claim. The learned single Judge was right in relegating the writ petitioner to go before the civil Court. The order passed by the learned single



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Judge cannot be faulted. This Writ Appeal stands dismissed. There shall be no

order as to costs.

[G.R.S., J.] [K.R.S., J.]
11.07.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

- 1.The Secretary to Government,
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Chennai.
- 2.The Deputy Inspector General of Police,
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