



W.A.(MD).No.2055 and 2056 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2025

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CORAM

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

W.A.(MD).No.2055 and 2056 of 2025
and
C.M.P.(MD).Nos.11750, 11771 and 11772 of 2025

W.A.(MD).No.2055 of 2025

Kamaraj

... Appellant/Third Party

Vs.

1.Christhudhas.G

... 1st Respondent/Petitioner

2.The Additional Chief Secretary to Government,
The Department of Animal Husbandry, Dairying,
Fisheries and Fishermen Welfare,
Fort St.George, Chennai – 9.

3.The Secretary to Government,
Public Department,
Chennai.

... Respondents 2 & 3/
Respondents 1 & 2

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 16.05.2025, made in W.P.(MD).No.13891 of 2022, by this Court insofar as the appellant is concerned.



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W.A.(MD).No.2055 and 2056 of 2025

For Appellant : Mr.S.Rajagopal
Senior Advocate
for Mr.Aayiram K.Selvakumar
For R-2 & R-3 : Mr.A.Kannan
Additional Government Pleader

W.A.(MD).No.2056 of 2025

Dr.M.Vallalar, IAS,
Commissioner,
Commissionerate of Rehabilitation and
Welfare of Non-Resident Tamils,
Government of Tamil Nadu,
Ezhilagam Annexe, Fourth Floor,
Chepauk, Chennai – 600 005.

... Appellant/Third Party

Vs.

1.G.Christhudhas

... 1st Respondent/Petitioner

2.The Additional Chief Secretary to the Government,
Department of Animal Husbandry, Dairying,
Fisheries and Fishermen Welfare,
Fort St.George, Chennai – 600 009.

3.The Secretary to Government,
Public Department,
Government of Tamil Nadu,
Fort St.George, Chennai – 600 009.

... Respondents 2 & 3/
Respondents 1 & 2

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the impugned order dated 16.05.2025 made in W.P.(MD).No.13891 of 2022 on the file of this Court, insofar as they are against the appellant in paras 20 to 41 are concerned.



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W.A.(MD).No.2055 and 2056 of 2025

For Appellant : Mr.Sricharan Rangarajan
Senior Advocate for Mr.K.Appadurai
For R-2 & R-3 : Mr.N.Ramesh Arumugam
Government Advocate

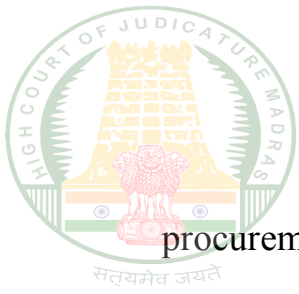
COMMON JUDGMENT

(Judgment of the Court was made by K.RAJASEKAR, J.)

Both the Writ Appeals arise out of the order passed by the learned Single Judge in W.P.(MD).No.13891 of 2022 dated 16.05.2025 and the issue involved in the appeals is one and the same. Hence, both the Writ Appeals are taken up together for final disposal and a common order is hereby passed.

2. These intra-Court appeals, invoking Clause 15 of the Letters Patent, are filed by the third parties by obtaining leave of this Court challenging the order passed by the learned Single Judge in W.P.(MD).No.13891 of 2022 dated 16.05.2025, wherein, the learned Single Judge directed registration of the regular criminal case and to take further course of action in accordance with law against the appellants herein.

3. The writ appellants/third parties, Mr.M.Vallalar and Mr.C.Kamaraj served as Director and Commissioner of the Milk Production and Dairy Development Department respectively and they have approved proposal for



W.A.(MD).No.2055 and 2056 of 2025

procurement of some stationaries. The Government subsequently initiated enquiries into the procurements of stationaries alleging some irregularities. The writ petitioner, who was working as the then Deputy Milk Commissioner, also alleged to have been involved in the irregularities. The writ petitioner was suspended by an order dated 30.05.2022 and was not allowed to retire from services by order dated 31.05.2022. The specific allegation levelled against the petitioner is that while placing the proposal for procurement orders, he placed inflated price, which resulted in loss to the tune of Rs.1.75 Crores to various Co-operative Societies.

4. Challenging the above two orders of suspension and retention in service of the writ petitioner, a Writ Petition in W.P.(MD).No.13891 of 2022 was filed before this Court. The major grounds raised by the writ petitioner was that he was having an unblemished record and just before his superannuation, he was suspended and retained in service. He further submitted that he has placed a proposal to his higher authorities, i.e., the then Commissioner and the Director of the Department and after following proper procedures, the supply orders were issued. In this regard, the Vigilance and Anti-Corruption Department has already conducted an enquiry and recorded its finding that there are no malpractices and misappropriation of funds. The Government has also accepted the report and dropped further proceedings against the then



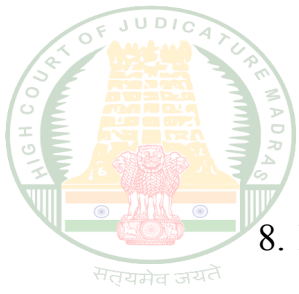
W.A.(MD).No.2055 and 2056 of 2025

Commissioner and Director, however, proceeded against the writ petitioner and the same is not proper and arbitrary.

5. The Writ Court, after hearing the parties in the Writ Petition, has observed that the enquiry against the writ petitioner is to be proceeded. Further, it is observed that there is a *prima facie* material as against the then Commissioner and Director of Milk Production and Diary Development Department (appellants herein) and directed to re-open the case against the above officers and the petitioner by registering a regular criminal case and to conduct investigation.

6. Aggrieved over the above direction, the then Commissioner and Director of Milk Production and Diary Development Department have filed two separate Writ Appeals as stated supra.

7. At the time of admission, both sides were heard. We have also raised a query regarding the maintainability of the Writ Appeals under Clause 15 of the Letters Patent, 1865, since the directions issued by the learned Single Judge are also in exercise of criminal jurisdiction.



W.A.(MD).No.2055 and 2056 of 2025

8. Heard Mr.S.Rajagopal, learned Senior Advocate for the appellant and Mr.A.Kannan, learned Additional Government Pleader for the respondents 2 and 3 in W.A.(MD).No.2055 of 2025; Mr.Sricharan Rangarajan, learned Senior Advocate for the appellant and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents 2 and 3 in W.A.(MD).No.2056 of 2025.

9. The learned Senior Counsels appearing on behalf of the appellants have submitted that the learned Single Judge has exercised the powers under Article 226 of the Constitution of India, though the learned Judge has directed the initiation of criminal proceedings, the proceedings were originated from the writ proceedings filed by the writ petitioner questioning the validity of his suspension and subsequent order of retaining him in service. They referred the case of *Ram Kishan Fauji Vs. State of Haryana and others, (2017) 5 SCC 533* and *Jogendrasinhji Vijay Singhji Vs. State of Gujarat and others, (2015) 9 SCC 1*, where, to reiterate that as against the order passed under Article 226 of the Constitution of India, the appeal from the judgment of a Single Judge to a Division Bench of the same High Court is maintainable, provided the judgment is not passed in exercise of appellate or revisionary jurisdiction.

10. The learned counsels further submitted that in this case, the learned Single Judge has heard the matter relating to service and while dismissing the



W.A.(MD).No.2055 and 2056 of 2025

relief claimed, he further ordered for reopening the investigation done by the Vigilance and Anti-Corruption Department and consequently directed to register the FIR and the same is not done by exercising powers under Criminal Procedure Code. Reference was also made to the order passed by the Division Bench of this Court in the case of **Kotak Mahindra Bank Limited Vs. R.Selvaraj and others, 2024 (2) CTC 492**, wherein, the appeal filed against the order passed by a learned Single Judge directing the registration of a criminal case by invoking Section 340 of Code of Criminal Procedure, 1973 is held as not maintainable.

11. The learned counsels submitted that there is violation of principles of natural justice since the appellants have not been heard before passing adverse impugned order against them. It is also submitted that the learned Single Judge has not considered the report submitted by the Vigilance and Anti-Corruption Department in this regard and erred in holding that there is a *prima facie* case against the appellants herein.

12. In **Ram Kishan Fauji Vs. State of Haryana and others** cited supra, the Hon'ble Apex Court has considered the maintainability of appeal under Letters Patent against the order passed by the learned Single Judge in exercise of jurisdiction under Article 226 of the Constitution and held that the

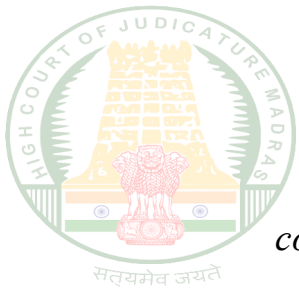


W.A.(MD).No.2055 and 2056 of 2025

recommendations of the Lok Ayuktha directing launching of criminal prosecution and consequent quashing of the FIR by the Single Judge is not an appealable order before the Division Bench under Letters Patent.

13. The Apex Court further approved the Full Bench judgment of the Delhi High Court in ***C.S.Agarwal Vs. State, 2011 SCC OnLine Del 3136*** and the judgment of the Division Bench of Gujarat High Court in ***Sanjeev Rajendrabhai Bhatt Vs. State of Gujarat, (2000) 1 Guj LR 206*** and approved the test adopted by the Full Bench. The relevant paragraphs referred are as follows:

“53. The Full Bench of the High Court of Delhi in C.S. Agarwal v. State [C.S. Agarwal v. State, 2011 SCC OnLine Del 3136 : (2011) 125 DRJ 241] was dealing with a situation wherein a writ petition was filed before the High Court under Article 226 of the Constitution of India read with Section 482 CrPC seeking for appropriate writ for quashing of the FIR. As the writ petition was dismissed [C.S. Agarwal v. State, 2010 SCC OnLine Del 3914 : (2010) 175 DLT 323] by the learned Single Judge, an intra-court appeal was preferred. A preliminary objection was taken by the respondents as regards the maintainability of the LPA contending that the judgment of the learned Single Judge was passed in exercise of criminal jurisdiction and the letters patent appeal against such an order is barred by Clause 10 and Clause 18 of the Letters Patent



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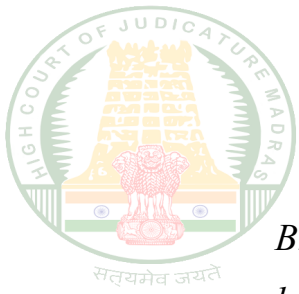


W.A.(MD).No.2055 and 2056 of 2025

constituting the High Court of Judicature at Lahore, which is applicable to the Judicature of High Court of Delhi. The Full Bench analysed Clause 10 of the Letters Patent and took note of what has been prohibited for entertaining any intra-court appeal. The Full Bench, analysing various decisions, opined thus : (SCC OnLine Del para 19)

“19. ... proceedings under Article 226 of the Constitution would be treated as original civil proceedings only when it concerns civil rights. A fortiori, if it concerns a criminal matter, then such proceedings would be original criminal proceedings. Letters Patent would lie when the Single Judge decides the writ petition in proceedings concerning civil rights. On the other hand, if these proceedings are concerned with rights in criminal law domain, then it can be said that the Single Judge was exercising his “criminal jurisdiction” while dealing with such a petition filed under Article 226 of the Constitution.”

54. After so stating, the Full Bench referred to the Constitution Bench decision in Ishwarlal Bhagwandas [CIT v. Ishwarlal Bhagwandas, (1966) 1 SCR 190 : AIR 1965 SC 1818] and distinguished the Full Bench decision of the Andhra High Court in Gangaram Kandaram [Gangaram Kandaram v. Sunder Chikha Amin, 2000 SCC OnLine AP 119 : (2000) 2 An LT 448] and noted the decision of the Division Bench of the Gujarat High Court in Sanjeev Rajendrabhai Bhatt [Sanjeev Rajendrabhai



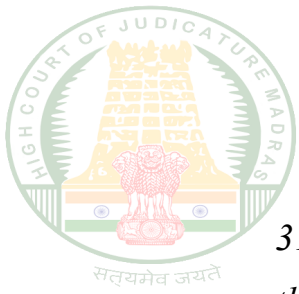
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Bhatt v. State of Gujarat, (2000) 1 Guj LR 206] and came to hold as follows : (C.S. Agarwal case [C.S. Agarwal v. State, 2011 SCC OnLine Del 3136 : (2011) 125 DRJ 241] , SCC OnLine Del paras 32-33)

“32. The test, thus, is whether criminal proceedings are pending or not and the petition under Article 226 of the Constitution is preferred concerning those criminal proceedings which could result in conviction and order of sentence.

33. When viewed from this angle, it is clear that if the FIR is not quashed, it may lead to filing of challan by the investigating agency, framing of charge and can result in conviction of order of sentence. Writ of this nature filed under Article 226 of the Constitution seeking quashing of such an FIR would therefore be “criminal proceedings” and while dealing with such proceedings, the High Court exercises its “criminal jurisdiction”.”

55. Being of this view, the Full Bench in C.S. Agarwal case [C.S. Agarwal v. State, 2011 SCC OnLine Del 3136 : (2011) 125 DRJ 241] opined that the letters patent appeal was not maintainable. In this regard, the learned counsel for the appellant has also drawn our attention to the Division Bench judgment of the Delhi High Court in Vipul Gupta v. State [Vipul Gupta v. State, 2014 SCC OnLine Del 434 : (2014) 208 DLT 468] wherein the Division Bench, placing reliance on the Full Bench decision [C.S. Agarwal v. State, 2011 SCC OnLine Del



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W.A.(MD).No.2055 and 2056 of 2025

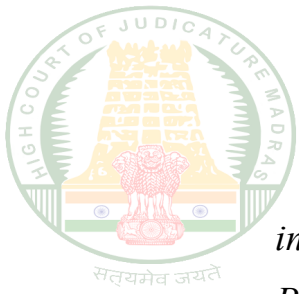
3136 : (2011) 125 DRJ 241] , has expressed the view that though the writ petitions were not filed for quashing of the FIR as in the case of the Full Bench decision, yet the learned Single Judge was exercising criminal jurisdiction, for the Lieutenant Governor of Delhi had agreed with the proposal not to press the application for withdrawal of the criminal case under Section 321 CrPC and allowed the trial court to proceed on merits. In this factual backdrop, the Division Bench opined : (Vipul Gupta case [Vipul Gupta v. State, 2014 SCC OnLine Del 434 : (2014) 208 DLT 468] , SCC OnLine Del pp. 290-91, para 14)

“14. ... Even though the challenge in the writ petitions was to a decision of Hon'ble the Lieutenant Governor but the said decision was relating to the prosecution already underway of the appellants and the direct effect of the dismissal of the writ petitions is of continuation of the prosecution which may result in imposition of sentences such as death, imprisonment, fine or forfeiture of property, of the appellants. We are thus of the view that this Court while dealing with the writ petitions was exercising its criminal jurisdiction. It cannot be also lost sight of that the writ petitions were intended to avoid the consequences of criminal proceedings initiated under the Code of Criminal Procedure and concerned with rights in criminal law domain. We have thus no doubt that the learned Single Judge, in dealing with the writ petitions was exercising “criminal jurisdiction” and these letters patent appeals are not maintainable.”



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*56. As we find from the decisions of the aforesaid three High Courts, it is evident that there is no disagreement or conflict on the principle that if an appeal is barred under Clause 10 or Clause 15 of the Letters Patent, as the case may be, no appeal will lie. The High Court of Andhra Pradesh, however, has held that when the power is exercised under Article 226 of the Constitution for quashing of a criminal proceeding, there is no exercise of criminal jurisdiction. It has distinguished the proceeding for quashing of the FIR under Section 482 CrPC and, in that context, has opined that from such an order, no appeal would lie. On the contrary, the High Courts of Gujarat and Delhi, on the basis of the law laid down by this Court in *Ishwarlal Bhagwandas [CIT v. Ishwarlal Bhagwandas, (1966) 1 SCR 190 : AIR 1965 SC 1818]*, have laid emphasis on the seed of initiation of criminal proceeding, the consequence of a criminal proceeding and also the nature of relief sought before the Single Judge under Article 226 of the Constitution. The conception of “criminal jurisdiction” as used in Clause 10 of the Letters Patent is not to be construed in the narrow sense. It encompasses in its gamut the inception and the consequence. It is the field in respect of which the jurisdiction is exercised, is relevant. The contention that solely because a writ petition is filed to quash an investigation, it would have room for intra-court appeal and if a petition is filed under inherent jurisdiction under Section 482 CrPC, there would be no space for an intra-court appeal, would create an anomalous, unacceptable and*



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W.A.(MD).No.2055 and 2056 of 2025

inconceivable situation. The provision contained in the Letters Patent does not allow or permit such an interpretation. When we are required to consider a bar or non-permissibility, we have to appreciate the same in true letter and spirit. It confers jurisdiction as regards the subject of controversy or nature of proceeding and that subject is exercise of jurisdiction in criminal matters. It has nothing to do whether the order has been passed in exercise of extraordinary jurisdiction under Article 226 of the Constitution or inherent jurisdiction under Section 482 CrPC.

57. In this regard, an example can be cited. In the State of Uttar Pradesh, Section 438 CrPC has been deleted by the State amendment and the said deletion has been treated to be constitutionally valid by this Court in Kartar Singh v. State of Punjab [Kartar Singh v. State of Punjab, (1994) 3 SCC 569 : 1994 SCC (Cri) 899] . However, that has not curtailed the extraordinary power of the High Court to entertain a plea of anticipatory bail as has been held in Lal Kamendra Pratap Singh v. State of U.P. [Lal Kamendra Pratap Singh v. State of U.P., (2009) 4 SCC 437 : (2009) 2 SCC (Cri) 330] and Hema Mishra v. State of U.P. [Hema Mishra v. State of U.P., (2014) 4 SCC 453 : (2014) 2 SCC (Cri) 363] But that does not mean that an order passed by the Single Judge in exercise of Article 226 of the Constitution relating to criminal jurisdiction, can be made the subject-matter of intra-court appeal. It is not provided for and it would be legally inappropriate to think so.

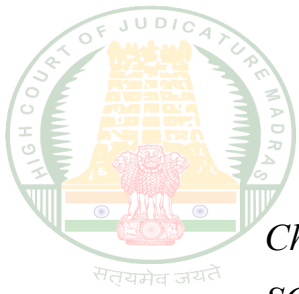


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58. *In view of the aforesaid premised reasons, we hold that the High Courts of Gujarat and Delhi have correctly laid down the law and the view expressed [Gangaram Kandaram v. Sunder Chikha Amin, 2000 SCC OnLine AP 119 : (2000) 2 An LT 448] by the Full Bench of the High Court of Andhra Pradesh is incorrect.”*

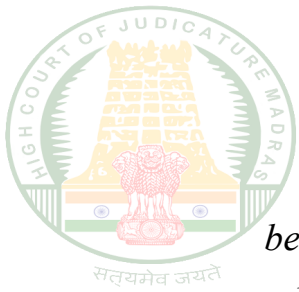
14. In ***Jogendrasinhji Vijay Singhji Vs. State of Gujarat and others*** cited supra, the Apex Court has considered the maintainability of appeal under Clause 15 of the Letters Patent of High Court against the orders passed in exercise of jurisdiction under Article 226 and Article 227 of the Constitution of India and summarized the legal principles as follows:

“40. *As the controversy in Jogendrasinhji Vijaysinghji case [Jogendrasinhji Vijaysinghji v. State of Gujarat, (2015) 9 SCC 1 : (2015) 4 SCC (Civ) 275] related to further two aspects, namely, whether the nomenclature of the article is sufficient enough and further, whether a tribunal is a necessary party to the litigation, the two-Judge Bench proceeded to answer the same. In that context, the Court referred to the authorities in Lokmat Newspapers (P) Ltd. v. Shankarprasad [Lokmat Newspapers (P) Ltd. v. Shankarprasad, (1999) 6 SCC 275 : 1999 SCC (L&S) 1090] , Kishorilal [Kishorilal v. District Land Development Bank, (2006) 7 SCC 496] , Ashok K. Jha [Ashok K. Jha v. Garden Silk Mills Ltd., (2009) 10 SCC 584 : (2010) 1 SCC (L&S) 78] and Ramesh Chandra Sankla [Ramesh*



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Chandra Sankla v. Vikram Cement, (2008) 14 SCC 58 : (2009) 1 SCC (L&S) 706] and opined that maintainability of a letters patent appeal would depend upon the pleadings in the writ petition, the nature and character of the order passed by the learned Single Judge, the type of directions issued regard being had to the jurisdictional perspectives in the constitutional context. It further observed that barring the civil court, from which order as held by the three-Judge Bench in *Radhey Shyam* [*Radhey Shyam v. Chhabi Nath, (2015) 5 SCC 423 : (2015) 3 SCC (Civ) 67*] that a writ petition can lie only under Article 227 of the Constitution, orders from tribunals cannot always be regarded for all purposes to be under Article 227 of the Constitution. Whether the learned Single Judge has exercised the jurisdiction under Article 226 or under Article 227 or both, would depend upon various aspects. There can be orders passed by the learned Single Judge which can be construed as an order under both the articles in a composite manner, for they can co-exist, coincide and imbricate. It was reiterated that it would depend upon the nature, contour and character of the order and it will be the obligation of the Division Bench hearing the letters patent appeal to discern and decide whether the order has been passed by the learned Single Judge in exercise of jurisdiction under Article 226 or 227 of the Constitution or both. The two-Judge Bench further clarified that the Division Bench would also be required to scrutinise whether the facts of the case justify the assertions made in the petition to invoke the jurisdiction under both the articles and the relief prayed on that foundation. The delineation with regard to necessary party not



being relevant in the present case, the said aspect need not be adverted to.

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41. We have referred to these decisions only to highlight that it is beyond any shadow of doubt that the order of the civil court can only be challenged under Article 227 of the Constitution and from such challenge, no intra-court appeal would lie and in other cases, it will depend upon the other factors as have been enumerated therein.

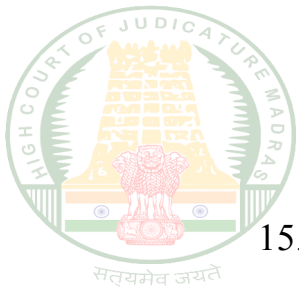
42. At this stage, it is extremely necessary to cull out the conclusions which are deducible from the aforesaid pronouncements. They are:

42.1. An appeal shall lie from the judgment of a Single Judge to a Division Bench of the High Court if it is so permitted within the ambit and sweep of the Letters Patent.

42.2. The power conferred on the High Court by the Letters Patent can be abolished or curtailed by the competent legislature by bringing appropriate legislation.

42.3. A writ petition which assails the order of a civil court in the High Court has to be understood, in all circumstances, to be a challenge under Article 227 of the Constitution and determination by the High Court under the said article and, hence, no intra-court appeal is entertainable.

42.4. The tenability of intra-court appeal will depend upon the Bench adjudicating the lis as to how it understands and appreciates the order passed by the learned Single Judge. There cannot be a straitjacket formula for the same.”



15. The Division Bench of this Court in **Kotak Mahindra Bank Limited**

Vs. R.Selvaraj and others cited supra has observed in paragraphs 12 to 14 as follows:

“12. The preliminary question that has to be considered and decided is whether or not the present appeal under Clause 15 of the Letters Patent is maintainable.

13. Clause 15 of the Letters Patent reads thus :-

"15. Appeal from the Courts of Original Jurisdiction to the High Court in its appellate jurisdiction.— And We do further ordain that an appeal shall lie to the said High Court of Judicature at Madras from the judgment (not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court, and not being an order made in the exercise of revisional jurisdiction, and not being a sentence or order passed or made in the exercise of the power of superintendence under the provisions of Sec.107 of the Government of India Act, or in the exercise of criminal jurisdiction) of one Judge of the said High Court or one Judge of any Division Court, pursuant to Sec.108 of the Government of India Act, and that notwithstanding any thing herein before provided an



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W.A.(MD).No.2055 and 2056 of 2025

appeal shall lie to the said High Court from a judgment of one Judge of the said High Court or one Judge of any Division Court, pursuant to Sec. 108 of the Government of India Act made (on or after the 1st day of February, 1929), in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court, where the Judge who passed the judgment declares that the case is a fit one for appeal, but that the right of appeal from other judgments of Judges of the said High Court or of such Division Court shall be to Us Our Heirs of Successors in Our or Their Privy Council as hereinafter provided."

(emphasis supplied)

Therefore, the question to be decided is that whether or not the order of the learned Single Judge under the appeal is passed in exercise of criminal jurisdiction.

*14. The issue has already been considered by the Hon'ble Supreme Court of India in **Ram Kishan Fauji's** case (cited supra). In the said matter, the Lok Ayuktha of the State of Haryana directed an investigation based on materials including a Video Compact Disc. The same was challenged in a Civil Writ Petition before the High Court. The learned Single Judge quashed the orders as also the consequential F.I.R lodged pursuant thereto. A Letters Patent Appeal was entertained in*



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respect of the same and an interim stay was granted. The application for vacating the interim order was dismissed and the interim order was made absolute. The Hon'ble Supreme Court of India, after referring to its judgment in **Jamshed N. Guzdar Vs. State of Maharashtra, 2005 (2) SCC 591**, held that till a competent legislation deals with the subject, the powers under the Letters Patent can be exercised by the High Court. The Hon'ble Supreme Court of India, in paragraph Nos.27 to 31, considered the difference between a civil proceeding and a criminal proceeding. The Hon'ble Supreme Court of India considered the judgment of the Gujarat High Court in **Sanjeev Rajendrabhai Bhatt Vs. State of Gujarat, 2001 (1) Guj LR 206** and held in paragraph No.52 as follows :-

"52. From the aforesaid analysis, it is demonstrable that the Gujarat High Court has opined that relying on the authority of this Court in *Ishwarlal Bhagwandas [CIT v. Ishwarlal Bhagwandas, (1966) 1 SCR 190 : AIR 1965 SC 1818]*, the issue whether the proceedings are civil or not would depend upon the nature of the right violated and the appropriate relief which might be claimed and not upon the nature of the tribunal which has been invested to grant relief. The Division Bench further opined that even if cognizance is not taken in respect of a criminal case, it would not take out the case from the purview of criminal jurisdiction. Thus, it has been held by the Division Bench that when there is a proceeding under Article



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W.A.(MD).No.2055 and 2056 of 2025

226 of the Constitution arising from an order made by a Court in exercise of power under the Code of Criminal Procedure, it would be a criminal proceeding within the meaning of Letters Patent."”

16. The above judgments cited supra laid down the law that when the Court exercises the powers under Article 226 of the Constitution of India unless there is express bar, an appeal under Clause 15 of the Letters Patent is maintainable. If the Writ Court exercises the criminal jurisdiction by invoking powers in exercise of Article 226 of the Constitution, there is an express bar provided under Clause 15 barring the filing of appeal and against the exercise of criminal jurisdiction by the learned Single Judge, no appeal is maintainable before the High Court. The proceedings under Article 226 of the Constitution would be treated as original civil proceedings only when it concerns civil rights. If the proceedings are concerned with rights in criminal law domain, then, it can be stated that the Single Judge was exercising his criminal jurisdiction while dealing with such a petition filed under Article 226 of the Constitution.

17. In ***Deepa Vs. S.Vijayalakshmi and others*** in ***W.A.(MD).Nos.1155 of 2020, 1200 and 1216 of 2019 dated 07.02.2025***, the Division Bench of this

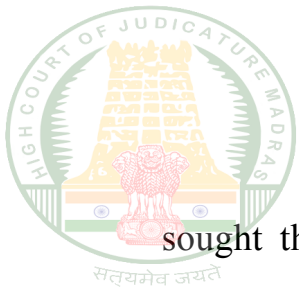


W.A.(MD).No.2055 and 2056 of 2025

Court, while considering the maintainability of appeal before the Division Bench exercising Clause 15 of Letters Patent of the High Court of Judicature at Madras, considered the expression of the words 'criminal jurisdiction' and has observed as follows:

“8. ..Clause 15 of Letters Patent of the High Court of Judicature Madras is to the effect that an appeal shall not lie before the Division Bench from the judgment / order of the single Judge made in exercise of criminal jurisdiction. The expression “criminal jurisdiction” has been defined as one which exists for the punishment of crimes (P.Ramanatha Aiyar's Advanced Law Lexicon). The Hon'ble Supreme Court in the decision reported in (2017) 5 SCC 533 (Ram Kishan Fauji Vs State of Haryana & Others) had held that the conception of criminal jurisdiction is not to be construed in a narrow sense. A criminal proceeding is ordinarily one which if carried to its conclusion may result in the imposition of sentences. For instance, if an order has been passed under Article 226 directing the Police to register an FIR if any cognizable offence is made out, writ appeal challenging such an order is not maintainable under Clause 15 (KN Pudur Primary Agricultural Coop Credit Society Vs G.Balakrishnan (2018) 2 LW 111).”

18. In the case on hand, admittedly, the writ petitioner has come forward with a grievance that the suspension order passed against him and retaining him in service is violating his rights and the same is not legally sustainable and



sought the relief of quashing the above two orders. The relief claimed and pleadings made undoubtedly shows that the issue involved is a service matter and not falls within the definition of criminal jurisdiction. The learned Single Judge, after analyzing various records and also after hearing the writ petitioner and the concerned Department, passed the following order, which is impugned herein:

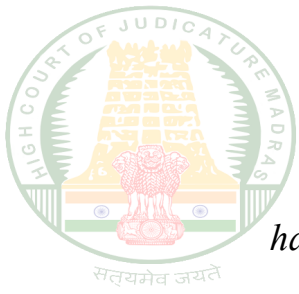
“41.In view of the foregoing reasons and discussions, this Court is passing the following order:-

i. A clear case has been made out and the disciplinary proceedings has already been initiated as against this petitioner by appointing an enquiry officer. Therefore, the writ petition stands dismissed.

ii. The disciplinary proceedings initiated as against this petitioner shall be concluded within a period of three months from the date of receipt of a copy of this order.

iii. Since there is prima facie material as against the IAS officers, namely, Mr.C.Kamaraj, I.A.S., and Mr. Vallalar, I.A.S and also against this petitioner, the Directorate of Vigilance and Anti Corruption, Chennai is directed to re-open the case as against the above two IAS officers and the petitioner/Additional Milk Commissioner by registering a regular criminal case and to take further course of action in accordance with law.

iv. The Central Vigilance Commissioner, Government of India shall take a call on the issue, the manner in which the fraud has been committed, the manner in which the IAS officers



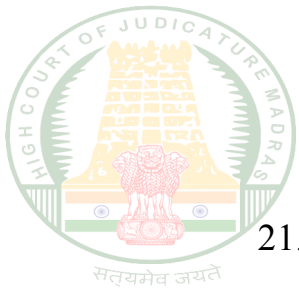
W.A.(MD).No.2055 and 2056 of 2025

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have been exonerated and to take appropriate action and also to ensure that the the Policy of the Government of zero tolerance against corruption is sustained.”

19. The learned Single Judge has dismissed the contentions raised by the writ petitioner and rejected the relief claimed by the petitioner holding that a clear case is made out against the writ petitioner and disciplinary proceedings has to be proceeded by appointing an Enquiry Officer and consequently, dismissed the Writ Petition. Thereafter, the learned Single Judge has further held that disciplinary proceedings shall be concluded within a period of three months. He held that there is a *prima facie* material against the writ appellants and direction was issued to reopen the case against the writ appellants and the writ petitioner by registering a criminal case and take further course of action in accordance with law. There is further direction to conduct the enquiry over the way in which the IAS Officers have been exonerated.

20. The directions issued by the learned Single Judge in paragraph 41-iii of the order is reopening the case as against the writ appellants and by registering a regular criminal case. Further direction is also issued in paragraph 41-iv to the Central Vigilance Commissioner to conduct enquiry on the manner in which the writ appellants have been exonerated from the allegations.



W.A.(MD).No.2055 and 2056 of 2025

21. Though directions issued by the learned Single Judge show that it is in exercise of criminal jurisdiction and if the directions were complied with, it would reach its conclusion by imposition of sentence, however, in paragraph 31, it was observed that a separate proceedings were initiated against the officers, i.e., the writ appellants herein and subsequently, those proceedings were closed. The learned Judge has recorded his displeasure over the way in which those proceedings were closed, which resulted in issuance of directions in paragraph 41-iii. However, the proceedings initiated before the learned Single Judge is relating to service matters and the relief sought for is also not in the nature of criminal jurisdiction. The order further reveals that since the Government has decided to stop further proceedings, more particularly, the departmental proceedings, the order to reopen the case has been ordered. Hence, we are of the view that though the direction issued is for registration of criminal case, but the other reliefs sought and rejected by the learned Single Judge could not be termed as criminal jurisdiction.

22. We have also approached the maintainability of the appeals from another angle that if the writ petitioner filed a Writ Appeal challenging the order passed by the learned Single Judge, the maintainability of Writ Petition could not have been raised, since the issue raised by him and subsequent dismissal of relief is not concerning the criminal jurisdiction. Though the major



W.A.(MD).No.2055 and 2056 of 2025

relief claimed by the writ petitioner is dismissed by the learned Judge, *suo motu*

further directions were issued including reopening of the disciplinary proceedings ordered against the writ appellants and also to conduct an enquiry by way of registering criminal case and further direction to conduct enquiry with regard to exoneration of the writ appellants. Hence, we are of the view that the writ appeals filed by the appellants are not only against the registration of criminal case, but also against the order of the Single Judge ordering reopening of the enquiry proceedings initiated against them. Admittedly, based on the Vigilance report, the further proceedings (both disciplinary as well as criminal proceedings) were dropped against the appellants. The registration of criminal case could be ordered only after reopening the enquiry conducted by the Vigilance Department. If we agree with the appellants on merits that the reopening itself is not proper, then, the further directions of registration of criminal case would not arise. Letters Patent appeal against the reopening of the Vigilance enquiry is maintainable, however, the appeal against consequential relief of registering the criminal case alone is not maintainable. In view of the same, we are inclined to hold that the Letters Patent appeals challenging the directions issued in paragraph 41-iii of the impugned order are maintainable.

23. Now, we consider the merits of the appellants. The admitted case of the parties herein that both the writ appellants have suffered adverse orders in the writ proceedings and there are severe allegations levelled against them, but



W.A.(MD).No.2055 and 2056 of 2025

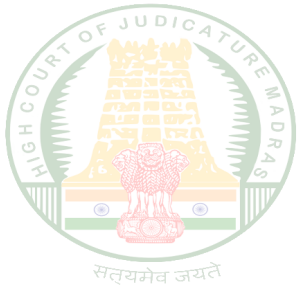
they have not been added as a party and have not been given any opportunity to put forth their case. We are of the view that since the writ appellants have suffered an adverse order, that too, when they claim to be a senior IAS officers working in the Government and the order would adversely affect their career, providing fair opportunity to hear them would be appropriate. Since they have not been given opportunity in the writ proceedings, we are of the view that the directions issued against them in paragraph 41-iii of the order requires reconsideration.

24. Accordingly, we remand the matter to the learned Single Judge to hear the writ appellants and pass appropriate orders on merits. We make it clear that we have not gone into the merits of the claim made by the writ petitioner and the consequent dismissal of his relief claimed in the Writ Petition.

25. Accordingly, the Writ Appeals are partly allowed. The order of the learned Single Judge passed in paragraph 41-iii and iv are set aside with a direction to the learned Single Judge to reconsider the matter after hearing the writ appellants herein and pass orders accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S.,J.) (K.R.S.,J.)
05.08.2025

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W.A.(MD).No.2055 and 2056 of 2025

G.R.SWAMINATHAN, J.
and
K.RAJASEKAR, J.

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To

1.The Additional Chief Secretary to Government,
The Department of Animal Husbandry, Dairying,
Fisheries and Fishermen Welfare,
Fort St.George, Chennai – 9.

2.The Secretary to Government,
Public Department,
Chennai.

W.A.(MD).No.2055 and 2056 of 2025

05.08.2025