

W.P.Crl.(MD)No.1210 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

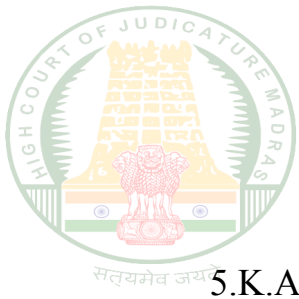
W.P.Crl.(MD)No.1210 of 2025

K.Saravanan

...Petitioner

Vs.

- 1.The State rep. by
The Superintendent of Police,
Southern Range,
Vigilance and Anti – Corruption,
Chennai-600016.
- 2.The District Collector,
Collectorate Campus,
Dindigul District,
Dindigul-624004.
- 3.The Superintendent of Police,
Dindigul District,
Dindigul-624004.
- 4.The Sub Inspector of Police,
District Crime Branch - II,
(Land Grabbing Section),
Superintendent of Police Office Campus,
Dindigul-624004.



W.P.Crl.(MD)No.1210 of 2025

WEB COPY

5.K.Arulkumar

6.Muniyandi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 3 and 4 to conduct fair and proper enquiry and to take necessary action against the accused based on the complaint made by the petitioner.

For Petitioner : Mr.V.Muthumani

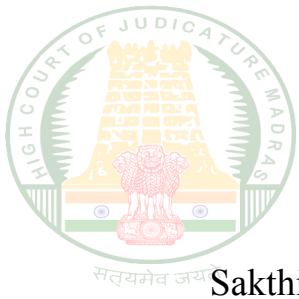
For Respondents : Mr.S.Ravu
Additional Public Prosecutor for R1, R3 & R4

Mrs.K.Malathi,
Additional Government Pleader for R2

ORDER

The Writ Petition has been filed invoking Article 226 of the Constitution seeking direction to the respondents 3 and 4 to conduct fair and proper enquiry and to take necessary action against the accused based on the complaint made by the writ petitioner.

2. The case of the writ petitioner is that the writ petitioner is a Trustee of Arulmigu Sangili Karuppusamy, Arulmigu Shree Sabatha Kannimaragal, Arulmigu Sangili Murugan Swamy and Arulmigu Shree



W.P.Crl.(MD)No.1210 of 2025

WEB COPY

Sakthi Vinayagar Swamy Trust, that the Government provided 2 acres of land to the landless poor as per the prevailing Government scheme and the Government officials allocated the lands around the Seegan Karadu, in which, Sangili Karuppasamy temple located to the landless poor, that the villagers came to know that the portion of the land has been purchased by the fifth respondent from one Kuppusamy and Vellaiyammal, that the writ petitioner subsequently came to know that the respondents 5 and 6 colluding with each other created a forged voter identification with fake names and address of Kuppusamy and Vellaiyammal by impersonation claiming to be residing within the limits of Ayyalur Panchayat, that the fifth respondent thereafter sold the land to one Renuka, that the writ petitioner lodged a complaint with the respondents 1 to 3 complaining about the forgery committed in the execution of the deeds, that the first respondent has forwarded the said complaint to the respondents 2 and 3, that the third respondent, in turn, has forwarded the same to the fourth respondent, that the fourth respondent called the writ petitioner for enquiry and after enquiry, there was no further action and that therefore the writ petitioner was constrained to file the present petition seeking writ of mandamus.



W.P.Crl.(MD)No.1210 of 2025

WEB COPY

3. Even according to the writ petitioner, his complaint was forwarded to the fourth respondent police and since there was no action, he was forced to approach this Court. A cursory perusal of the averments in the writ petition would only reveal that the writ petitioner has been indirectly seeking registration of criminal case. The Hon'ble Supreme Court in the case of ***Priyanka Srivastava and another Vs. State of U.P. and others*** reported in ***(2015) 6 SCC 287*** has held,

“24. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the bank. We are absolutely conscious that the position does not matter, for nobody is above law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the SARFAESI Act, invokes the jurisdiction under Section 156(3) Cr.P.C. and



WEB COPY



W.P.Crl.(MD)No.1210 of 2025

also there is a separate procedure under the Recovery of Debts due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

25. Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in the society and also reflects the erroneous approach of the learned Magistrate. It also encourages the unscrupulous and unprincipled litigants, like the respondent no.3, namely, Prakash Kumar Bajaj, to take adventurous steps with courts to bring the financial institutions on their knees. As the factual exposition would reveal, he had prosecuted the earlier authorities and after the matter is dealt with by the High Court in a writ petition recording a settlement, he does not withdraw the criminal case and waits for some kind of situation where he can take vengeance as if he is the emperor of all he surveys. It is interesting to note that during the tenure of the appellant No.1, who is presently occupying the position of Vice-President, neither the loan was taken, nor the default was made, nor any action under the SARFAESI Act was taken. However, the action under the SARFAESI Act was taken on the second time at the instance of the present appellant No.1. We are only stating about the devilish design of the respondent No.3 to harass the appellants with the sole intent to avoid the



WEB COPY

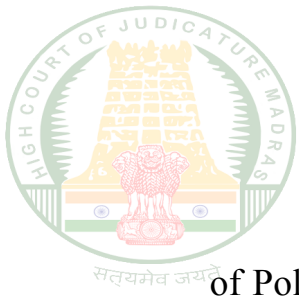


W.P.Crl.(MD)No.1210 of 2025

payment of loan. When a citizen avails a loan from a financial institution, it is his obligation to pay back and not play truant or for that matter play possum. As we have noticed, he has been able to do such adventurous acts as he has the embedded conviction that he will not be taken to task because an application under Section 156(3) Cr.P.C. is a simple application to the court for issue of a direction to the investigating agency. We have been apprised that a carbon copy of a document is filed to show the compliance of Section 154(3), indicating it has been sent to the Superintendent of police concerned.

26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.”

4. As per the scheme of B.N.S.S., if no action is taken by the jurisdictional police, the complainant has to approach the Superintendent



W.P.Crl.(MD)No.1210 of 2025

WEB COPY

of Police and even if no action is taken, he has to invoke Section 175(3)

B.N.S.S. (Section 156(3) Cr.P.C.) before the jurisdictional Magistrate.

Since the writ petitioner is having effective alternative remedy, he is not entitled to invoke Article 226 of the Constitution and as such, the writ petition itself is not maintainable. Hence, this Writ Petition is dismissed as not maintainable. The writ petitioner is at liberty to take appropriate proceedings in the manner known to law. No costs.

03.09.2025

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

csm

To

- 1.The Superintendent of Police,
Southern Range,
Vigilance and Anti – Corruption,
Chennai-600016.
- 2.The District Collector,
Collectorate Campus,
Dindigul District, Dindigul-624004.
- 3.The Superintendent of Police,
Dindigul District,
Dindigul-624004.
- 4.The Sub Inspector of Police,
District Crime Branch - II,
(Land Grabbing Section),
Superintendent of Police Office Campus,
Dindigul-624004.



WEB COPY



W.P.Crl.(MD)No.1210 of 2025

K.MURALI SHANKAR, J.

csn

Order made in
W.P.Crl.(MD)No.1210 of 2025

Dated : 03.09.2025