



W.P.Crl.(MD)No.2072 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.Crl.(MD)No.2072 of 2025

D.Sudalaipandian

...Petitioner

Vs.

1.The Superintendent of Police,
Vigilance and Anti – Corruption Wing,
Office of the Superintendent of Police,
Alandur,
Chennai.

2.The Deputy Superintendent of Police,
Vigilance and Anti – Corruption Wing,
Office of the Deputy Superintendent of Police,
Alagar Kovil Main Road,
Madurai.

3.Muthu Malaiammal

4.Mathiselvan

5.Thanga Sakthikala

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the second



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respondent to take appropriate action upon the petitioner's complaint dated 15.10.2025 and conclude the enquiry within time frame as fixed by this Court.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.S.Ravi
Additional Public Prosecutor for R1 & R2

ORDER

The Writ Petition has been filed invoking Article 226 of the Constitution seeking direction to the second respondent to take appropriate action upon the writ petitioner's complaint dated 15.10.2025.

2. The case of the writ petitioner is that the third respondent was the former Panchayat President of Kulasekarapatti Panchayat, Tenkasi District and on the allegations of misappropriation of the Panchayat fund, she was removed from the post by the District Collector vide order dated 05.11.2024, that the third respondent's writ petition challenging the removal order was dismissed and writ appeal is pending, that the fourth respondent is the husband of the third respondent and the fourth respondent married one Thanga Sakthikala, who is the fifth respondent herein and they are running a private cable TV in the said village and



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during the election campaign, they assured to receive the monthly cable amount of Rs.100/- per line if they won, that the fourth respondent purchased two vehicles and has been using the same without registration, that the fourth respondent purchased some lands by showing meagre value, that they are also running a private financial institution by name Galaxy Finance at Pavurchathiram, Tenkasi District by investing Rs.40 lakhs by the fifth respondent, that the Panchayat President have collected several lakhs for grant of approval in the construction of building and for approval and registration of plots, that though the writ petitioner approached the concerned authorities, there was no action and that therefore the writ petitioner was constrained to lodge a complaint before the second respondent and since no action was taken, the writ petitioner has approached this Court.

3. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that the writ petitioner ought to have approached the Deputy Superintendent of Police, Vigilance and Anti Corruption Wing, Tenkasi and not Madurai.



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4. Whatever it is, even according to the writ petitioner, his complaint before the second respondent was to take action against the respondents 3 to 5. 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



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



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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.”

5. As per the scheme of B.N.S.S., if no action was taken by the second respondent or the Deputy Superintendent of Police, Vigilance and



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Anti Corruption Wing, Tenkasi, the complainant has to approach the higher officials and even if no action is taken, he has to invoke Section 175(3) B.N.S.S. before the jurisdictional Court. 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.

13.11.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
csm

To

- 1.The Superintendent of Police,
Vigilance and Anti – Corruption Wing,
Office of the Superintendent of Police,
Alandur, Chennai.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti – Corruption Wing,
Office of the Deputy Superintendent of Police,
Alagar Kovil Main Road, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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K.MURALI SHANKAR, J.

csm

Order made in
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