



W.P.Crl.(MD)No.2173 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.Crl.(MD)No.2173 of 2025

A.Kalaimani

...Petitioner

Vs.

- 1.The Union of India,
Rep.by the Secretary to Government,
Ministry of Housing and Urban Affairs,
New Delhi.
- 2.The Chairman,
Tamil Nadu Urban Habitat Development Board,
No.5, Kamarajar Salai,
Chennai – 600 005.
- 3.The Director of Vigilance and Anti-Corruption (DVAC)
No.293, N.K.N.Road, Alandur,
Chennai 600 016.
- 4.The Superintendent of Police,
Southern Range,
Vigilance and Anti-Corruption,
No.293, N.K.N.Road, Alandur,
Chennai 600 016.



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5.The Executive Engineer,
Tamil Nadu Urban Habitat Development Board,
Tirunelveli Division,
NGO, 'B' Colony Extension,
Perumalpuram, Tirunelveli 627 007.

6.The Assistant Engineer,
Tamil Nadu Urban Habitat Development Board,
Tenkasi Division, Tenkasi District.

7.R.Subramanian

8.R.Muppidathi

9.R.Veeramani

10.M.Thirumalai Ammal

11.R.Eswaran

12.R.Kottimuthu

13.C.Sujeeth Mukesh

14.P.Muthulakshmi

15.R.Kottiyappan

16.S.Karuppasamy

17.B.Karuppasamy

... 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 take appropriate action on the petitioner's complaint, dated 13.08.2025 and to register the complaint and investigate the same and file final report in accordance with law.



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For Petitioner : Mr.S.Murugapandi,

For Respondents : Mr.K.P.Krishnadoss,
Senior Standing Counsel, for R1.

: Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)
for R3 & R4

ORDER

The Writ Petition has been filed invoking Article 226 of the Constitution seeking direction to the respondents 3 and 4 to take appropriate action on the petitioner's complaint, dated 13.08.2025 and to register the complaint and investigate the same and file final report.

2. The case of the writ petitioner is that the Union of India implemented the scheme of Pradhan Mantri Awas Yojana (PMAY), which is credit linked subsidy scheme to facilitate access to affordable housing for the low and moderate income residents; that the scheme was subsequently extended to cover all below poverty line population; that the petitioner came to know that the respondents 7 to 17 have misused the object of the scheme and receiving the subsidy from the fourth



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respondent and the petitioner sought for an information from the Public Information Officer/5th respondent and received the report, wherein it was informed that the annual income of the beneficiary cannot exceed Rs.3 lakhs; that since the respondents 7 to 17 misused the scheme, the petitioner was forced to send a petition to the Directorate of Vigilance and Anti Corruption/3rd respondent on 23.04.2024; that the petitioner's earlier petition in W.P.(MD)No.7107 of 2025, directing the respondents 2 to 5 and the District Collector to take appropriate action against the respondents 7 to 17 for being misused and swindling the subsidy amount, which were disbursed to them under Pradhan Mantri Awas Yojana (PMAY) scheme, was dismissed with liberty to the petitioner to file a criminal case, if necessary and that since the respondents 3 and 4 have not taken any action, the petitioner was constrained to approach this Court.

3. Even in the earlier order passed in W.P(MD)No.7107 of 2025, this Court directed the petitioner to proceed with the criminal remedy. Even according to the petitioner, the complaint was forwarded to the second respondent and since there was no action, he has filed the above petition.



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4. 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 payment of loan. When a citizen avails a loan from a



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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 is taken by the jurisdictional police (ie., respondents 3 and 4), the complainant has to approach the higher officials and if no action is taken, he has to invoke



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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.

20.11.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
das

To

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- 4.The Superintendent of Police,
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- 6.The Assistant Engineer,
Tamil Nadu Urban Habitat Development Board,
Tenkasi Division, Tenkasi District.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

Order made in
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