



WP.Crl.(MD).No.430/2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 28.01.2026

CORAM :

THE HONOURABLE Mrs. JUSTICE N.MALA

WP.Crl.(MD)No.430 of 2026

R.Muthukumar

... Petitioner

Vs.

1.The Directorate of Vigilance and Anti Corruption,
Chennai.

2.The Superintendent of Police,
Central Range, Vigilance and Anti Corruption,
Chennai-16.

3.The District Collector
Pudukkottai District.

4.The Divisional Engineer [Highways]
Construction & Maintenance Division
Pudukkottai.

... Respondents

Prayer: Writ petition [Criminal] filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the 1st and 2nd respondents to conduct enquiry on the complaint sent by the petitioner dated 30.09.2025 within the reasonable time to be fixed by this Court at once.



WP.Crl.(MD).No.430/2026

For Petitioner
For R1, R2 & R3

: Mr.P.Ganapathi Subramanian
: Mr.B.Nambi Selvan
Additional Public Prosecutor

ORDER

- (1) This writ petition is filed for a writ of mandamus to direct the 1st and 2nd respondents to conduct enquiry on the complaint sent by the petitioner dated 30.09.2025 within the reasonable time to be fixed by this Court.
- (2) The petitioner is Class I Contractor registered in Public Works Department and Highways Department. The petitioner states that he filed a complaint on 30.09.2025, to the respondents 1 and 2 against one Mr.Murugesan, Class I Contractor [Highways of Pudukkottai], stating that, though his license for running the Crusher Unit was cancelled for violating the conditions of the Quarry Permit, he still continued to run the Unit within the prohibited distance of 500 meters from the residential area, by getting false certificate from the officials concerned. The petitioner further states that the said Murugesan served as a conduit for the officials for collecting the bribes for finalisation of tenders. Since the respondents did not take any action on his complaint, the petitioner was constrained to file the above writ petition for the aforesaid relief.



WP.Crl.(MD).No.430/2026

(3)The learned Additional Public Prosecutor, submitted that the writ petition is not maintainable since the petitioner has an alternate remedy under Section 175(3) of BNSS, before the jurisdictional Court.

(4)The learned Additional Public Prosecutor, in support of the aforesaid submission, relied on the order passed by this Court in WP.Crl.(MD)No.1925 of 2025 dated 31.10.2025.

(5)Heard both sides and perused the materials available on record.

(6)The facts are not disputed. This Court, while considering similar issue in WP.Crl.(MD)No.1925 of 2025, dismissed the petition on 31.10.2025, on the ground of availability of an alternate remedy. The Court relied on the judgment of the Hon'ble Supreme Court of India in ***Priyanka Srivastava and another Vs. State of U.P and others*** reported in 2015(6) SCC 287. The Hon'ble Supreme Court in the aforesaid judgment held as follows:

“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



WP.Crl.(MD).No.430/2026

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,



WEB COPY



WP.CrL.(MD).No.430/2026

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 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.”



WP.Crl.(MD).No.430/2026

(7) From the aforesaid judgment of the Hon'ble Supreme Court and as rightly contended by the learned Additional Public Prosecutor, it is explicit that the petitioner has an alternative and efficacious remedy available to him under Section 175(3) of BNSS, before the jurisdictional Court to have his complaint registered. Since the petitioner has an alternative and efficacious remedy under Section 175(3) of BNSS before the jurisdictional court, this writ petition cannot be entertained.

(8) In fine, this writ petition is dismissed. Needless to say, the petitioner is at liberty to invoke Section 175[3] of BNSS, if so advised. No costs.

28.01.2026

Index : Yes/No
Internet : Yes/No

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WP.Crl.(MD).No.430/2026

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WEB COPY



WP.Crl.(MD).No.430/2026

N.MALA., J.

AP

WP.Crl.(MD)No.430 of 2026

28.01.2026