



*Crl.O.P.(MD)No.1823 of 2025*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.02.2026

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD)No.1823 of 2025

Mary Stella

... Petitioner

Vs.

1.The Superintendent of Police,  
Kanyakumari, Kanyakumari District.

2.The Deputy Superintendent of Police,  
Thuckalay Sub Division,  
Kanyakumari District.

3.The Inspector of Police,  
Thiruvattar Police Station,  
Kanyakumari District.

4.The Inspector of Police,  
CBCID Wing,  
Kanyakumari District.

5. The Secretary for the Government of Tamilnadu,  
Ministry of Home, Chennai-600009.

... Respondents

(5<sup>th</sup> Respondent is *suo motu* impled vide Court order dated 03.02.2026 in Crl.OP(MD)No.1823 of 2025 by LVGJ)

PRAYER : Petition filed under Section 528 of BNSS, 2023, to issue a direction to transfer the investigation in Cr.No.215 of 2017 from the file



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of the third respondent to file of the fourth respondent and consequently, direct the fourth respondent to conduct proper investigation in an expeditious manner within the stipulated period.

For Petitioner : Mr.S.Jebastin

For Respondents : Mr.B.Thanga Aravindh

Government Advocate (Crl.Side)

**ORDER**

This criminal original petition has been filed to issue a direction to transfer the investigation in Cr.No.215 of 2017 from the file of the third respondent to file of the fourth respondent and consequently, and to direct the fourth respondent to conduct proper investigation in an expeditious manner within the stipulated period.

2. The case of the prosecution is that the petitioner is running a small shop near her house. On 11.06.2027, while she was in the said shop at around 08.00 p.m, one unkonwn person came into the shop and snatched 60 grams of gold chain (Mangal Sutra) from the neck of the petitioner valued at about Rs.4,50,000/-. On receipt of complaint, a case was registered in Crime No.215 of 2017 for the offence under Sections 379 of IPC. Even after a lapse of 9 years, there is no progress in the



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investigation. Hence, the petition.

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3. The petitioner alleges that the third respondent police neither came to the house of the petitioner nor conducted the investigation properly and no effective investigation has been undertaken though nine years have passed and despite representations dated 12.12.2024, seeking recovery of gold ornament and file charge sheet, no progress has been made. If the investigation is continued by the third respondent, the real culprits would escape from the clutches of law.

4. When the matter is taken up for hearing, the learned Government Advocate (Crl.Side) appearing for the respondent police would submit that after completion of investigation, the final report has been filed as "Undetected" and RCS notice was also served in RCS No. 68 of 2021.

5. This Court paid it's anxious consideration to the rival submissions made on either side and perused the materials placed on record.

6. The case before this Court raise a larger question about the



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manner in which investigations into property offences are conducted and the legal consequences of the State's failure to effectively discharge this responsibility. Though the case involves the complaint of theft they highlight a systemic concern – when the State, having assumed the exclusive authority to investigate and prosecute criminal offences, fails to identify the offender and closes the matter as “undetected”, what becomes of the victim's right to justice?

7. The answer lies in understanding the evolution of the State's prosecutorial role. In the early stages of human civilisation, the enforcement of criminal law was a private affair. The responsibility of protecting oneself and avenging a wrong rested solely with the individual or the community. As society evolved into an organised political State governed by law, the power to investigate, prosecute and punish offences was taken away from private citizens and vested in the State. This transformation was not merely administrative, but moral and constitutional in nature. It embodied the principle that crime is not only an offence against an individual but also an offence against the peace and order of the society.



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WEB COP 8. Once this collective responsibility was assumed, the State became the guardian of public safety and the custodian of justice. Every First Information Report registered under the criminal law is, therefore, not a dispute between two private individuals but an assertion that the sovereign authority of law has been violated. The prosecution of offences in the name of the State is thus an acknowledgment of this constitutional arrangement — that it is the State's solemn duty to ensure that wrongdoers are identified and victims is not left remediless.

9. This duty of the State to investigate crimes effectively is not a matter of grace or convenience; it is an integral part of the constitutional guarantee under Article 21 of the Constitution of India. The right to life and personal liberty includes within its scope the right to live with dignity, security and protection of one's property. When an individual reports the commission of a cognizable offence, she is exercising her fundamental right to seek protection from the State. Correspondingly, the State has a non-delegable duty to respond through a fair, competent and diligent investigation.



WEB COPY 10. The Hon'ble Supreme Court in *H.N. Rishbud and Inder Singh v.*

*State of Delhi*<sup>1</sup>, enumerated the five essential stages of investigation – proceeding to the spot, ascertainment of facts, discovery of the offender, collection of evidence, and formation of opinion for prosecution. Each of these stages is mandatory and integral. If any of them is omitted or handled perfunctorily, the entire process stands vitiated. An investigation that fails to progress beyond registration of the FIR or collection of a few statements cannot be said to satisfy the requirements of law.

11. Similarly, in *Sharif Ahmad v. State of Uttar Pradesh*<sup>2</sup>, the Hon'ble Supreme Court has observed that the purpose of investigation is to ascertain truth, identify the offender and collect evidence so that justice may be done. It was held that an investigation must be transparent and effective, since the administration of criminal justice begins, and often ends, at this stage. An ineffective investigation

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<sup>1</sup> AIR 1955 SC 196

<sup>2</sup> 2024 INSC 363



amounts to a denial of justice not only to the victim but also to society at

large. The relevant portion is extracted as under:-

*“26. The object and purpose of the police investigation is manifold. It includes the need to ensure transparent and free investigation to ascertain the facts, examine whether or not an offence is committed, identify the offender if an offence is committed, and to lay before the court the evidence which has been collected, the truth and correctness of which is thereupon decided by the court.”*

12. The Full Bench of this Court in ***Chinnathambi @ Subramani v. State***<sup>1</sup>, has already laid down that an “undetected” report cannot be treated as a final report under Section 173(2) of the Code of Criminal Procedure. Such a report does not bring the investigation to a close. It merely informs the Magistrate that, for the present, the offender has not been found. The investigation, in law, continues to remain open and must be resumed when fresh information is received. The Bench made it clear that the Magistrate does not pass a judicial order accepting such a report; he merely records it. The relevant portion is extracted as under:-

*“39. Thirdly, if the Investigating Officer, despite the earnest efforts taken, is unable to detect the crime, he will submit a report to the Magistrate stating that the crime is 'undetectable'. In such a case, it cannot be construed that the investigation has been*

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<sup>1</sup> 2017 (1) MWN (Cr) 471



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*completed. If once the investigation is completed, then only a report could be filed under Section 173(2) Cr.P.C. A report of this kind where the Police Officer states that the crime is undetectable, does not terminate the investigation and thus, the investigation is construed to be in progress. It is like an interim report not falling within the scope of Section 173(2) Cr.P.C. On receipt of such a report, the learned Magistrate does not pass a judicial order but, instead, he simply receives and records the same. There is absolutely no element of any adjudication. This order of the learned Magistrate is undoubtedly not a judicial order."*

Thus, the obligation of the police to continue investigation until the offender is brought to book is already the settled position of law.

13.It is encouraging to note that the Police Department has now acknowledged this continuing duty through the above recommendations and has institutionalised a mechanism for monitoring such cases. This acknowledgment deserves appreciation, as it ensures greater accountability and instills confidence in the system that no victim will be left without pursuit of justice merely because the initial investigation could not yield results.

14.However, the issue before this Court does not end with the



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procedural compliance by the police. The question that necessarily arises is—what is the position of the victim when the offender remains untraced and the crime continues to remain undetected for years together? The obligation of the State is not confined to bringing the offender to justice. It also extends to ensuring that the victim, who has suffered loss or injury, receives appropriate relief. However, the status report is silent in this regard.

15.The Hon'ble Supreme Court in *Rattiram and Others v. State of Madhya Pradesh*<sup>1</sup> , emphasised the concept of “victimology” and recognised that criminal jurisprudence must evolve to protect victims as rights-bearing participants, not as silent spectators. The victim’s expectation that the State will protect him, investigate the crime and restore his loss is a legitimate one arising out of Article 21. The relevant portion is extracted as under:-

*“64. ... The criminal jurisprudence, with the passage of time, has laid emphasis on victimology which fundamentally is a perception of a trial from the view point of the criminal as well as the victim. Both are viewed in the social context. The view of the victim*

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<sup>1</sup> AIR 2012 SC 1485



*is given due regard and respect in certain countries. ..."*

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16. When that expectation is defeated due to failure of the State machinery, the victim's fundamental right to life and dignity stands infringed. The responsibility of the State does not end with registration of an FIR or filing of an "undetected" report. It continues until justice, in some form, is provided to the victim.

17. The Division Bench of the Orissa High Court in *Abdul Rashid v. State of Orissa and Others*<sup>1</sup>, held that when the State fails to identify the accused or collect acceptable evidence to punish the guilty, the duty to give compensation remains. The Court reasoned that victims of crime have a legitimate expectation that the State will protect their rights and, when it fails to do so, it must compensate them for that failure. The relevant portion is extracted as under:-

*"6. Question for consideration is whether the responsibility of the State ends merely by registering a case, conducting investigation and initiating prosecution and whether apart from taking these steps, the State has further responsibility to the victim. Further question is whether the Court has legal duty to award compensation irrespective of conviction or acquittal. When the State fails to identify the accused*

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<sup>1</sup> 2013 SCC OnLine Ori 493



*or fails to collect and present acceptable evidence to punish the guilty, the duty to give compensation remains. Victim of a crime or his kith and kin have legitimate expectation that the State will punish the guilty and compensate the victim. There are systemic or other failures responsible for crime remaining unpunished which need to be addressed by improvement in quality and integrity of those who deal with investigation and prosecution, apart from improvement of infrastructure but punishment of guilty is not the only step in providing justice to victim. Victim expects a mechanism for rehabilitative measures, including monetary compensation. Such compensation has been directed to be paid in public law remedy with reference to Article 21. In numerous cases, to do justice to the victims, the Hon'ble Supreme Court has directed payment of monetary compensation as well as rehabilitative settlement where State or other authorities failed to protect the life and liberty of victims. ...*

*7. Expanding scope of Article 21 is not limited to providing compensation when the State or its functionaries are guilty of an act of commission but also to rehabilitate the victim or his family where crime is committed by an individual without any role of the State or its functionary."*

*18. Similarly, in **Ankush Vhivaji Gaikwad v. State of Maharashtra**<sup>1</sup>, the Hon'ble Supreme Court recognised that the shift towards a victim-centric justice system requires recognition of the*

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<sup>1</sup> (2013) 6 SCC 770



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victim's right to reparation and compensation. The Court observed that this marks a return to the ancient understanding that justice is not complete unless the harm suffered by the victim is acknowledged and remedied. The relevant portion is extracted as under:-

*“33. The long line of judicial pronouncements of this Court recognised in no uncertain terms a paradigm shift in the approach towards victims of crimes who were held entitled to reparation, restitution or compensation for loss or injury suffered by them. This shift from retribution to restitution began in the mid 1960s and gained momentum in the decades that followed. Interestingly the clock appears to have come full circle by the law makers and courts going back in a great measure to what was in ancient times common place.”*

19. In fact, the 154<sup>th</sup> Report of the Law Commission of India (1996) and the Malimath Committee on Reforms of the Criminal Justice System (2003) have both recommended that the State should provide compensation to victims of crime, especially in cases where offenders remain unidentified or unpunished. These recommendations flow from the constitutional obligation of the State to secure justice and protect fundamental rights. The relevant portions are extracted as under:



Law Commission Report:-

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“Chapter-15:

1. ... Crimes often entail substantive harm to people and not merely symbolic harm to the social order. Consequently, the needs and rights of victims of crime should receive priority attention in the total response to crime. One recognized method of protection of victims is compensation to victims of crime. The needs of victims and their family are extensive and varied.”

Malimath Committee Report:-

“6.7.2 What happens to the right of victim to get justice to the harm suffered? Well, he can be satisfied if the state successfully gets the criminal punished to death, a prison sentence or fine. How does he get justice if the State does not succeed in so doing? Can he ask the State to compensate him for the injury? In principle, that should be the logical consequence in such a situation; but the State which makes the law absolves itself.

... ..

6.8.7 Sympathizing with the plight of victims under Criminal Justice administration and taking advantage of the obligation to do complete justice under the Indian Constitution in defense of human rights, the Supreme Court and High Courts in India have of late evolved the practice of awarding compensatory remedies not only in terms of money but also in terms of other appropriate reliefs and remedies. ...



6.8.8 *These decisions have clearly acknowledged the need for compensating victims of violent crimes irrespective of the fact whether offenders are apprehended or punished. The principle invoked is the obligation of the state to protect basic rights and to deliver justice to victims of crimes fairly and quickly. It is time that the Criminal Justice System takes note of these principles of Indian Constitution and legislate on the subject suitably."*

20. In ***Nilabati Behera v. State of Orissa and Others***<sup>1</sup>, the Hon'ble Supreme Court held that Courts have the power and obligation to grant compensation under Articles 32 and 226 of the Constitution for violation of fundamental rights due to State action or inaction. The Court described such compensation as a "public law remedy" distinct from private claims for damages, intended to assure citizens that they live under a legal system which protects their rights and provides redress for public wrongs. The relevant observation is extracted as under:-

*"34.The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the*

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1 (1993) 2 SCC 746



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Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and infeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court molds the relief by granting "compensation" in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen. ... .. This Court and the High Courts, being the protectors of the civil liberties of the citizen, have not only the power and jurisdiction but also an obligation to grant relief in exercise of its jurisdiction under Articles 32 and 226 of the Constitution to the victim or the heir of the victim whose fundamental rights under Article 21 of the Constitution of India are established to have been flagrantly infringed by calling upon the State to repair the damage done by its officers to the fundamental rights of the citizen, notwithstanding the right of the citizen to the remedy by way of a civil suit or criminal proceedings."

21.This principle applies squarely to the present context. The State, having assumed exclusive control over investigation and prosecution,



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has correspondingly assumed responsibility for their failure. When citizens surrender the right of private retribution and repose faith in the rule of law, the State undertakes to investigate crimes and secure justice on their behalf. If it fails in this basic duty, the resulting injury to the victim is an injury inflicted by the State itself.

22.The remedy for such failure cannot be confined to expressions of sympathy or directions for further investigation. The constitutional guarantee of life and liberty demands a real and effective remedy. Compensation awarded in public law serves not only to redress individual loss but also to affirm State accountability and restore faith in the justice system.

23.Therefore, when a crime remains “undetected” due to lapses or inaction of the investigating machinery, and the victim is left without recovery or closure for years, it constitutes a violation of Article 21. The Court, as guardian of fundamental rights, must step in to provide limited monetary relief as a measure of public law compensation. This power flows from the same constitutional foundation that empowers the



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State to prosecute offences in the name of the public. The object of such compensation is not to punish individual officers or to substitute civil damages, but to recognise the failure of the system as a whole and to impose corrective responsibility upon the State. It also serves as a reminder that justice delayed or denied at the investigative stage is as grave a violation as any miscarriage at the trial stage.

24. Hence, this Court in exercise of the power of the judicial review under Article 226 and inherent jurisdiction under Section 482 CrPC can direct the payment of compensation so that the ends of justice is secured and the constitutional rights of the victim of crime is being protected.

25. It is in this constitutional backdrop that the petition must be viewed. The victim in the case has waited for years without any progress or information. Her stolen properties represent not only material loss but also a deep sense of helplessness against the machinery that was expected to protect her. The State, having failed in its duty to investigate and prosecute effectively, cannot now disclaim responsibility for the consequences of that failure.



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26.The materials before this Court show that in the present case, the investigation has been perfunctory and the petitioner, who is a victim of theft, has been left without remedy. She has endured years of uncertainty and distress. The pattern of neglect disclosed in the records reveals failure of the State to perform its constitutional duty of protection.

27.This Court therefore holds that the petitioner is entitled to compensation and that systemic directions must be issued to prevent recurrence of such failures. Accordingly, this Court is inclined to implead the Secretary for the Government of Tamilnadu, Ministry of Home, Chennai-600009, as 5<sup>th</sup> Respondent. The Registry is directed to carry out the necessary amendment in the cause title.

28.In view of the above discussion, the following directions are issued:-

- i) The Home Department of the State shall pay monetary



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compensation equivalent to 30% of the value of the property reported stolen in this case to the petitioner within twelve weeks from the date of receipt of this order.

ii) This payment shall be recoverable from the petitioner if the offender is subsequently identified and the property recovered.

29. Insofar as the individual relief sought for by the petitioner is concerned, the Investigating Officer concerned shall pursue the investigation with due diligence. It is open to the supervisory authorities to review the progress of investigation, and, if circumstances so warrant, to entrust the matter to a higher or specialised agency for proper and effective investigation.

30. With the above observations and directions, the criminal original petition stand disposed of.

**03.02.2026**

NCC : Yes / No  
Index : Yes / No  
dss



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**L.VICTORIA GOWRI, J.**

dss

**To:-**

- 1.The Superintendent of Police,  
Kanyakumari, Kanyakumari District.
- 2.The Deputy Superintendent of Police,  
Thuckalay Sub Division, Kanyakumari District.
- 3.The Inspector of Police,  
Thiruvattar Police Station, Kanyakumari District.
- 4.The Inspector of Police,  
CBCID Wing, Kanyakumari District.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

Order made in  
**Crl.O.P.(MD)No.1823 of 2025**

Dated  
**03.02.2026**