



CRL OP(MD). No.7748 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 02/02/2026

CORAM

THE HONOURABLE MRS. JUSTICE L. VICTORIA GOWRI

CRL OP(MD). No.7748 of 2024

P.Thomas

... Petitioner

Vs

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

2. The Deputy Superintendent Of Police,
Nagercoil Sub Division,
Kanyakumari District.

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

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

... Respondents

PRAYER :-

To Transfer the Investigation in Cr.No.335/2022 from the file of 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.



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For Petitioner : M/s.Jebastin.S,
Advocate.

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For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to transfer the investigation in Cr.No.335/2022 from the file of 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.

2. Learned counsel for the petitioner submitted that the petitioner who is the defacto complainant, had lodged a complaint before the third respondent police on 28.07.2022 with respect to missing of jewellery. In this regard, FIR was registered in Cr.No.335/2022.

3. The petitioner alleges that the third respondent police has not conducted the investigation properly and no substantial progress has been made. Though four years have passed, no charge sheet has been



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filed. 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 case has been closed as “Undetected” and RCS notice has also been served to the petitioner.

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

6. In a similar nature of this case, this Court passed an order in Crl.OP(MD)Nos.10290 of 2025 dated 25.11.2025 and the relevant portion of the order reads as follows:-

“36.The Hon'ble Supreme Court in Rattiram and Others v. State of Madhya Pradesh [AIR 2012 SC 1485], 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:-

“50. ... 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 is given due regard and respect in certain countries. ...”

37. 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.

38. The Division Bench of the Orissa High Court in Abdul Rashid v. State of Orissa and Others, [2013 SCC OnLine Ori 493], 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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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.”

39. Similarly, in Ankush Vhivaji Gaikwad v. State of Maharashtra [(2013) 6 SCC 770], the Hon'ble Supreme Court recognised that the shift towards a victim-centric justice system requires recognition of the 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



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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.”

40. In fact, the 154th 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:-

“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.”

41.In Nilabati Behera v. State of Orissa and Others [(1993) 2 SCC 746], 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



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infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible 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."

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



43. *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.*

44. *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 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.*

45. *Section 482 of the Code of Criminal Procedure saves the inherent power of the High Court, as a superior Court, to make such orders as are necessary (i) to prevent an abuse of the process of any Court; or (ii) otherwise to secure the ends of justice. In State of Punjab v. Kasturi Lal [2004 (12) SCC 195], the Hon’ble Supreme Court has held that*



Section 482 confers the inherent power to High Courts to do right and undo wrong and the relevant portions are extracted hereunder:-

“10.No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the Section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice.”

46.It is also pertinent to note that there is no prohibition on the exercise of the powers of this Court under Article 226 while dealing with matters under its criminal jurisdiction. In Pepsi Foods Ltd. and Another vs. Special Judicial Magistrate and Others [(1998) 5 SCC 749], the Hon’ble Supreme Court has held that the power of judicial review could very well be exercised by the High Courts when dealing with criminal matters along with its inherent powers under Section 482 CrPC and the relevant portions are extracted hereunder:-

“22. It is settled that the High Court can exercise its power of judicial review in criminal matters. In State of Haryana v. Bhajan Lal, this Court examined the extraordinary power under Article 226 of the Constitution and also the inherent powers under Section 482 of the Code which it said could be exercised by the High Court either to prevent abuse of



the process of any court or otherwise to secure the ends of justice. While laying down certain guidelines where the court will exercise jurisdiction under these provisions, it was also stated that these guidelines could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice.

The power conferred on the High Court under Articles 226 and 227 of the Constitution and under Section 482 of the Code have no limits but more the power more due care and caution is to be exercised while invoking these powers.”

47.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 victims of crime are being protected.

48.It is in this constitutional backdrop that these petitions must be viewed. The victims in these cases have waited for years without any progress or information. Their stolen properties represent not only material loss but also a deep sense of helplessness against the machinery that was expected to protect them. The State, having failed in its duty to investigate and prosecute effectively, cannot now disclaim responsibility for the consequences of that failure.

49.The materials before this Court show that in each of these cases the investigation has been perfunctory and the petitioners, who are victims of theft, have been left without



remedy. They have 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.

50.This Court therefore holds that the petitioners are entitled to compensation and that systemic directions must be issued to prevent recurrence of such failures.

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

- i) The Home Department of the State shall pay monetary compensation equivalent to 30% of the value of the property reported stolen in each of these cases to the respective petitioners within twelve weeks from the date of receipt of this order.*
- ii) This payment shall be recoverable from the petitioners if the offender is subsequently identified and the property recovered.*
- iii) The Director General of Police shall implement the recommendations of the Committee headed by the ADGP, State Crime Records Bureau, Chennai, particularly:
 - a) Intimation to the complainant before filing any undetected report;*
 - b) Strict use of weekly “Crime and Occurrence (C&O)” sheets for information sharing; and*
 - c) Maintenance and analysis of the Register of Undetected Cases under PSO 608(d).**
- iv) The State Crime Records Bureau shall review undetected*



cases on a quarterly basis to identify trends and issue advisories to field units.

v) The Director General of Police shall issue a circular reaffirming that filing an undetected report does not terminate investigation and that such cases must be periodically reviewed.

vi) The Director General of Police (Training) shall design refresher courses for investigating officers on evidence preservation, forensic procedures and victim communication.

vii) Further, the State can also consider setting up of a Special Investigation Team of experts in each District by picking and choosing eminent officers in order to investigate cases classified as “undetected” for more than 5 years. This Team must be provided with more infrastructure, more powers and also more pay. On the identification of the accused, the State can consider rewarding the officers involved to encourage them.

49.Insofar as the individual relief sought for by the petitioners 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. With the above observations and directions, all these criminal original petitions stand disposed of.”



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6. Fully fortified by the aforesaid order, this Court also issued the same set of directions hereunder:-

i) The Home Department of the State shall pay monetary compensation equivalent to 30% of the value of the property reported stolen 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.

7. Insofar as the individual relief sought for by the petitioners 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.



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

02.02.2026

NCC : yes / no
Index : yes / no

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To

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2. The Deputy Superintendent Of Police,
Nagercoil Sub Division, Kanyakumari District.
3. The Inspector of Police, Kottar 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.



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L. VICTORIA GOWRI, J

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ORDER
IN
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