



W.P.Crl.(MD)No.2870 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.05.2026

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.Crl.(MD) No.2870 of 2026

Mohana Sundaram

...Petitioner

Vs.

1. The Superintendent of Police,
O/o. The Superintendent of Police
Karur District.

2. The Inspector of Police
K.Paamathi Police Station
Karur District.

3. Vivek Kumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1 and 2 respondents to consider petitioner's representation and conduct enquiry in complaint dated 23.05.2026 against the 3rd respondent for his illegal act and to provide protection to the petitioner and his family and pass such further or other orders.

For Petitioner : Mr.R.Lenin

For Respondents : Mr.S.Siva Subramanian
Counsel for State of TN (crl.side)



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ORDER

The present Writ Petition has been filed seeking Mandamus, directing the 1st and 2nd respondents to consider petitioner's representation and conduct enquiry in complaint dated 23.05.2026 against the 3rd respondent for his illegal act and to provide protection to the petitioner and his family members.

2. Mr.S.Sivasubramanian, learned Government Advocate takes notice for the Respondent Nos.1 & 2. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3. According to the learned counsel for the petitioner, a civil dispute is pending before the District Court, Karur in O.S.No.158 of 2025, and another suit in O.S.No.714 of 2025 is pending before the Sub Court, Karur. The petitioner is in possession of the property and he is defending his case. The 3rd respondent has interfered with the petitioner's peaceful possession of the property and that of his family. In the meanwhile, on 23.05.2026, when the petitioner was carrying out renovation and restructuring work in his house, the 3rd respondent allegedly trespassed into the property and threatened the petitioner and his family members by showing a knife. The petitioner lodged a

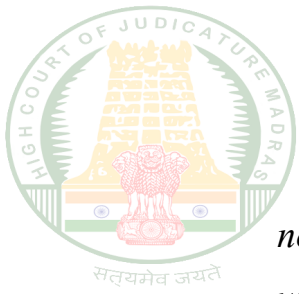


complaint before the 2nd respondent on 23.05.2026 against the 3rd respondent.

Although the 2nd respondent police received the complaint on the same day, it was kept pending without any consideration. As no further action was taken, the petitioner was constrained to file the present petition seeking a writ of mandamus.

4. Even according to the writ petitioner, since there was no action, he was forced to approach this Court. 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



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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 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, the complainant has to approach the Superintendent of Police and even if no action is taken, he has to invoke Section 175(3) of B.N.S.S. (Section 156(3) Cr.P.C.) before the jurisdictional Magistrate. Since the



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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.

27.05.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To:-

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Karur District.
2. The Inspector of Police,
K.Paamathi Police Station,
Karur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J

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Order made in
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