

W.P.(Crl.) No.133 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.(Crl.) No.133 of 2025

Muniraj

... Petitioner

Vs.

The State rep. by

1. The Chief Secretary
Government of Tamil Nadu
Secretariat,
Fort St. George
Chennai - 600 009
2. The Director General of Police (DGP)
Tamil Nadu Police Headquarters
Mylapore,
Chennai - 600 004
3. The District Collector
O/o. District Collector
Krishnagiri District
4. Mr.Thangadurai I.P.S.
The Superintendent of Police
O/o. Superintendent of Police
Krishnagiri
Krishnagiri District



W.P.(Crl.) No.133 of 2025

WEB COPY

5. Mr.Nagaraj

The Inspector of Police
Hosur Town Police Station
Krishnagiri District

...Respondents

PRAYER: Writ Petition (Criminal) filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to initiate appropriate proceedings as against the respondents 4 and 5 under Section 4(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and further direct the 5th respondent to register the complaint dated 07.08.2024 in view of the order passed by the learned Judicial Magistrate No.II, Hosur, Krishnagiri, in Crl.M.P.No.4717 of 2024, order dated 24.02.2025.

For Petitioner : Mr.R.Thirumoorthy

For Respondents 1 to 3 : Dr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

This Writ Petition (Criminal) has been filed by the petitioner to direct the respondents 1 and 2 to initiate appropriate proceedings as against the respondents 4 and 5 under Section 4(1) of the Scheduled



W.P.(Crl.) No.133 of 2025

WEB COPY

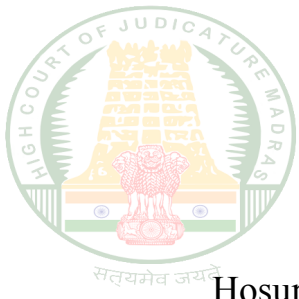
Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and further direct the 5th respondent to register the complaint dated 07.08.2024 in view of the order passed by the learned Judicial Magistrate No.II, Hosur, Krishnagiri, in Crl.M.P.No.4717 of 2024, order dated 24.02.2025.

2. The case of the petitioner is that the petitioner belongs to Scheduled Caste community and he is a physically challenged person. In the year 1997, under the Tamil Nadu Government Land Ceiling Scheme, his mother was granted 2.90 acres of land in Rangapanditha Agraharam Village in Hosur Taluk and since then he has been in possession and enjoyment of the said property. While so, one Lakshmiyamma, Venkatasami Reddy, Lakshmi Narayanan , Vijayakumar and Kannan and their associates, in order to usurp his land, obtained false and fabricated revenue documents in the name of their family members. Hence, the petitioner filed a civil suit against the said persons and their associates in O.S.No.105 of 2022 before the Sub-ordinate Court, Hosur. Meanwhile, on 06.08.2024 at around 5.00 p.m., he received an information that the



WEB COPY

said accused along with several known and unknown individuals arrived in a car and two wheelers carrying weapons such as Machetes and stones and trespassed into his land and began to demolish his house worth Rs.10 lakhs. Immediately, he called 100 and rushed to the spot wherein, the said persons threatened to kill the petitioner and scolded him in filthy language by demeaning his caste and disability. Fearing for life, despite being disabled with a cripple leg, he ran and saved himself. Immediately, he went to the 5th respondent police station and submitted a typed complaint regarding the said incident. However, the 5th respondent tore it up and threatened saying he would take action only if the petitioner signed a new complaint drafted by him. Out of fear, the petitioner signed the said complaint drafted by the 5th respondent and received CSR No.338 of 2024. Thereafter, in order to seek appropriate legal remedy and protection under Section 175 of BNSS, the petitioner sent representations to the respondents 1 to 3 and other higher Government officials along with the original complaint. However, the accused persons were using their clout from registering any FIR against them. Hence, the petitioner approached the learned Judicial Magistrate No.II,



W.P.(Crl.) No.133 of 2025

WEB COPY

Hosur, Krishnagiri by way of filing petition in Crl.M.P.No.4717 of 2024, invoking Section 156(3) Cr.P.C. seeking direction to register the complaint, wherein, the learned Magistrate passed an order dated 24.02.2025 directing the 5th respondent to register FIR and proceed in accordance with law. However, the 5th respondent has not complied with the same and has not taken any action against the accused persons and also not complied with the provisions of Section 4(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act. Therefore, the present Petition is filed.

3. The learned Government Advocate (Crl. Side) appearing for the respondents 1 to 3 submitted that based on the directions given by the learned Judicial Magistrate No.II, Hosur, Krishnagiri, in Crl.M.P.No.4717 of 2024, preliminary enquiry was conducted and the report was also forwarded to the Magistrate. Since already action was taken and report also filed, the petitioner is not entitled to the relief as sought for.



WEB COPY

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondents 1 to 3, and also perused the materials available on record.

5. The petitioner belongs to the Scheduled Caste community and is also a physically challenged person. According to him, his mother was granted 2.90 acres of land under the Tamil Nadu Government Land Ceiling Scheme in the year 1997, and he has been in possession and enjoyment of the said land ever since. It is alleged that certain individuals, with an intention to usurp the said property, fabricated revenue records, trespassed into the land, attempted to demolish the house constructed therein, and subjected the petitioner to verbal abuse, including caste-based slurs and remarks targeting his physical disability.

6. In respect of the said incident, the petitioner submitted a written complaint to the fifth respondent police on 07.08.2024. It is the specific case of the petitioner that the complaint disclosed cognizable offences under the Scheduled Castes and the Scheduled Tribes



W.P.(Crl.) No.133 of 2025

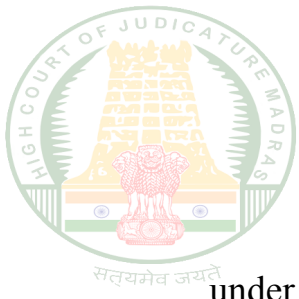
(Prevention of Atrocities) Act, 1989 (for brevity, “the SC/ST Act”).

WEB COPY

However, no First Information Report was registered. Aggrieved by the inaction of the police, the petitioner filed a petition under Section 156(3) Cr.P.C. in Crl.M.P. No.4717 of 2024 before the learned Judicial Magistrate No.II, Hosur, seeking a direction to register a case and conduct investigation.

7. By order dated 24.02.2025, the learned Magistrate directed the fifth respondent to conduct a preliminary enquiry and take action in accordance with law. Pursuant to such direction, a report was submitted by an Inspector of Police stating that no prima facie material was found for registration of an FIR.

8. As per Section 14 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, exclusive jurisdiction to try offences under the said Act is vested in the Special Court, which is a Court of Session presided over by a Sessions Judge. Therefore, a Judicial Magistrate has no jurisdiction to entertain a petition



WEB COPY

under Section 156(3) Cr.P.C. insofar as it relates to offences under the SC/ST Act, either for issuing directions for investigation or for taking cognizance.

9. Further, Section 18A(1)(a) of the SC/ST Act, introduced by Amendment Act 27 of 2018, reads as follows:

“18A. (1) For the purposes of this Act,—
(a) no preliminary enquiry shall be required for registration of a First Information Report against any person.”

This provision unequivocally bars any form of preliminary enquiry before registration of FIR where the complaint discloses a cognizable offence under the Act. The legislative intent is to ensure immediate and unfiltered registration of complaints alleging caste-based atrocities, without procedural obstructions or administrative discretion.

10. Therefore, the direction issued by the learned Magistrate for conducting a preliminary enquiry is contrary to the express bar under Section 18A(1)(a) of the SC/ST Act and also Section 14 of the said Act. Consequently, the subsequent action of the police, based on such direction, stands vitiated and is unsustainable in law.



WEB COPY

11. The position in law is no longer *res integra*. In ***Union of India v. State of Maharashtra***, [(2020) 4 SCC 761], the Hon'ble Supreme Court categorically held that when a complaint discloses a cognizable offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, no preliminary enquiry is permissible either under the Act or under the Code of Criminal Procedure. The Court emphasized that any requirement of a preliminary enquiry prior to registration of the FIR would operate to the disadvantage of members of the Scheduled Castes and Scheduled Tribes and would frustrate the very object for which the special legislation was enacted.

The relevant portion of the judgment reads as follows: :

"17. Before dealing with submission, we refer to the decisions. In *National Campaign on Dalit Human Rights v. Union of India* [*National Campaign on Dalit Human Rights v. Union of India*, (2017) 2 SCC 432 : (2017) 1 SCC (Cri) 734] , this Court has considered the report of Justice K. Punnaiah Commission and the 6th Report of the National Commission for Scheduled Castes/Scheduled Tribes. The NHRC Report also highlighted the non-registration of cases and various other machinations resorted to by the police to discourage Dalits from registering cases under the 1989 Act. In the said case this Court had directed the strict implementation of the provisions of the 1989 Act. The relevant portion of the decision mentioned above is extracted hereunder : (SCC p. 445, para 18)



WEB COPY

“18. We have carefully examined the material on record, and we are of the opinion that there has been a failure on the part of the authorities concerned in complying with the provisions of the Act and the Rules. The laudable object with which the Act had been made is defeated by the indifferent attitude of the authorities. It is true that the State Governments are responsible for carrying out the provisions of the Act as contended by the counsel for the Union of India. At the same time, the Central Government has an important role to play in ensuring the compliance with the provisions of the Act. Section 21(4) of the Act provides for a report on the measures taken by the Central Government and State Governments for the effective implementation of the Act to be placed before Parliament every year. The constitutional goal of equality for all the citizens of this country can be achieved only when the rights of the Scheduled Castes and Scheduled Tribes are protected. The abundant material on record proves that the authorities concerned are guilty of not enforcing the provisions of the Act. The travails of the members of the Scheduled Castes and the Scheduled Tribes continue unabated. We are satisfied that the Central Government and the State Governments should be directed to strictly enforce the provisions of the Act and we do so. The National Commissions are also directed to discharge their duties to protect the Scheduled Castes and Scheduled Tribes.”

18. Reliance has been placed on *Lalita Kumari v. State of U.P.* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , wherein a Constitution Bench of this Court has observed as under : (SCC pp. 29-30 & 53-54, paras 35, 36 & 99)

“35. However, on the other hand, there are a number of cases which exhibit that there are instances where the power of the police to register an FIR and initiate an investigation thereto are misused where a cognizable offence is not made out from the contents of the complaint. A significant case in this context is *Preeti Gupta v. State of Jharkhand* [*Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667 : (2010) 3 SCC (Cri)



WEB COPY



473] wherein this Court has expressed its anxiety over misuse of Section 498-A of the Penal Code, 1860 (in short “IPC”) with respect to which a large number of frivolous reports were lodged. This Court expressed its desire that the legislature must take into consideration the informed public opinion and the pragmatic realities to make necessary changes in law.

36. The abovesaid judgment resulted in the 243rd Report of the Law Commission of India submitted on 30-8-2012. The Law Commission, in its report, concluded that though the offence under Section 498-A could be made compoundable, however, the extent of misuse was not established by empirical data, and, thus, could not be a ground to denude the provision of its efficacy. The Law Commission also observed that the law on the question whether the registration of FIR could be postponed for a reasonable time is in a state of uncertainty and can be crystallised only upon this Court putting at rest the present controversy.

99. In *Tapan Kumar Singh* [CBI v. *Tapan Kumar Singh*, (2003) 6 SCC 175 : 2003 SCC (Cri) 1305] , it was held as under : (SCC pp. 183-84, para 20)

‘20. ... If he has reasons to suspect, on the basis of information received, that a cognizable offence may have been committed, he is bound to record the information and conduct an investigation. At this stage, it is also not necessary for him to satisfy himself about the truthfulness of the information. It is only after a complete investigation that he may be able to report on the truthfulness or otherwise of the information. ... The true test is whether the information furnished provides a reason to suspect the commission of an offence, which the police officer concerned is empowered under Section 156 of the Code to investigate. If it does, he has no option but to record the information and proceed to investigate the case either himself or depute any other competent officer to conduct the investigation.’”



WEB COPY

19. It is apparent from the decision in *Lalita Kumari* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] that FIR has to be registered forthwith in case it relates to the commission of the cognizable offence. There is no discretion on the officer in-charge of the police station for embarking upon a preliminary inquiry before registration of the FIR. Preliminary inquiry can only be held in a case where it has to be ascertained whether a cognizable offence has been committed or not. If the information discloses the commission of a cognizable offence, it is mandatory to register the FIR under Section 154 CrPC, and no preliminary inquiry is permissible in such a situation. This Court in *Lalita Kumari* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] observed as under : (SCC p. 36, para 54)

“54. Therefore, the context in which the word “shall” appears in Section 154(1) of the Code, the object for which it has been used and the consequences that will follow from the infringement of the direction to register FIRs, all these factors clearly show that the word “shall” used in Section 154(1) needs to be given its ordinary meaning of being of “mandatory” character. The provisions of Section 154(1) of the Code, read in the light of the statutory scheme, do not admit of conferring any discretion on the officer in charge of the police station for embarking upon a preliminary inquiry prior to the registration of an FIR. It is settled position of law that if the provision is unambiguous and the legislative intent is clear, the court need not call into it any other rules of construction.”

Concerning the question of arrest, in *Lalita Kumari* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] this Court has considered the safeguard in respect of arrest of an accused person. This Court affirmed the principle that arrest cannot be made routinely on the mere allegation of commission of an offence. The question arises as to justification to create a special dispensation applicable only to complaints under the Atrocities Act because of safeguards applicable generally.



WEB COPY

20. In *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], which has been relied upon in *Lalita Kumari* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524], this Court has observed as under : (*Bhajan Lal case* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], SCC pp. 354-55, paras 31-33)

“31. At the stage of registration of a crime or a case on the basis of the information disclosing a cognizable offence in compliance with the mandate of Section 154(1) of the Code, the police officer concerned cannot embark upon an enquiry as to whether the information, laid by the informant is reliable and genuine or otherwise and refuse to register a case on the ground that the information is not reliable or credible. On the other hand, the officer in charge of a police station is statutorily obliged to register a case and then to proceed with the investigation if he has reason to suspect the commission of an offence which he is empowered under Section 156 of the Code to investigate, subject to the proviso to Section 157. (As we have proposed to make a detailed discussion about the power of a police officer in the field of investigation of a cognizable offence within the ambit of Sections 156 and 157 of the Code in the ensuing part of this judgment, we do not propose to deal with those sections in extenso in the present context.) In case, an officer in charge of a police station refuses to exercise the jurisdiction vested in him and to register a case on the information of a cognizable offence reported and thereby violates the statutory duty cast upon him, the person aggrieved by such refusal can send the substance of the information in writing and by post to the Superintendent of Police concerned who if satisfied that the information forwarded to him discloses a cognizable offence, should either investigate the case himself or direct an investigation to be made by any police officer subordinate to him in



WEB COPY



the manner provided by sub-section (3) of Section 154 of the Code.

32. Be it noted that in Section 154(1) of the Code, the legislature in its collective wisdom has carefully and cautiously used the expression “*information*” without qualifying the same as in Section 41(1)(a) or (g) of the Code wherein the expressions, “*reasonable complaint*” and “*credible information*” are used. Evidently, the non-qualification of the word “*information*” in Section 154(1) unlike in Sections 41(1)(a) and (g) of the Code may be for the reason that the police officer should not refuse to record an information relating to the commission of a cognizable offence and to register a case thereon on the ground that he is not satisfied with the reasonableness or credibility of the information. In other words, “*reasonableness*” or “*credibility*” of the said information is not a condition precedent for registration of a case. A comparison of the present Section 154 with those of the earlier Codes will indicate that the legislature had purposely thought it fit to employ only the word “*information*” without qualifying the said word. Section 139 of the Code of Criminal Procedure of 1861 (25 of 1861) passed by the Legislative Council of India read that “*every complaint or information*” preferred to an officer in charge of a police station should be reduced into writing which provision was subsequently modified by Section 112 of the Code of 1872 (10 of 1872) which thereafter read that “*every complaint*” preferred to an officer in charge of a police station shall be reduced in writing. The word “*complaint*” which occurred in previous two Codes of 1861 and 1872 was deleted and in that place the word “*information*” was used in the Codes of 1882 and 1898 which word is now used in Sections 154, 155, 157 and 190(c) of the present Code of 1973 (2 of 1974). An overall reading of all the Codes makes it clear that the condition which is sine qua non for recording a first information report is that there must be an information and that information must disclose a cognizable offence.



WEB COPY



33. It is, therefore, manifestly clear that if any information disclosing a cognizable offence is laid before an officer in charge of a police station satisfying the requirements of Section 154(1) of the Code, the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information.”

(emphasis in original)

The Court observed that the conduct of an investigation into an offence after the registration of FIR is a procedure established by law and conforms with Article 21 of the Constitution. This Court has also considered possible misuse of the provisions of the law, in *Lalita Kumari* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524].

....
....
.....

68. The direction has also been issued that the DSP should conduct a preliminary inquiry to find out whether the allegations make out a case under the Atrocities Act, and that the allegations are not frivolous or motivated. In case a cognizable offence is made out, the FIR has to be outrightly registered, and no preliminary inquiry has to be made as held in *Lalita Kumari* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] by a Constitution Bench. There is no such provision in the Code of Criminal Procedure for preliminary inquiry or under the SC/ST Act, as such direction is impermissible. Moreover, it is ordered to be conducted by the person of the rank of DSP. The number of DSP as per stand of the Union of India required for such an exercise of preliminary inquiry is not available. The direction would mean that even if a complaint made out a cognizable offence, an FIR would not be registered until the preliminary inquiry is held. In case a preliminary inquiry concludes that allegations are false or motivated, FIR is not to be registered, in such a case how a final report has to be filed in the Court. Direction 79.4 cannot survive for the other reasons as it puts the members of the Scheduled Castes and Scheduled Tribes in a disadvantageous position



WEB COPY

in the matter of procedure vis-à-vis to the complaints lodged by members of upper caste, for later no such preliminary investigation is necessary, in that view of the matter it should not be necessary to hold preliminary inquiry for registering an offence under the Atrocities Act, 1989.

12. Moreover, the enquiry in the present case was conducted by an Inspector of Police. Rule 7(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, mandates that investigation into offences under the SC/ST Act shall be conducted by a police officer not below the rank of Deputy Superintendent of Police (DSP). The Hon'ble Supreme Court has repeatedly held that compliance with Rule 7 is mandatory, and any investigation conducted by an officer below the prescribed rank is without authority of law and is liable to be treated as null and void.

13. In the present case, the following legal infirmities are clearly evident:

(i) The learned Judicial Magistrate lacked jurisdiction under the SC/ST Act to entertain the petition under Section 156(3) Cr.P.C.;



WEB COPY

(ii) The direction for conducting a preliminary enquiry is in direct contravention of Section 18A(1)(a) of the Act;

(iii) The enquiry report was submitted by an officer below the rank of Deputy Superintendent of Police, in violation of Rule 7 of the SC/ST Rules; and

(iv) The learned Magistrate failed to adhere to the procedure contemplated under Rule 7(1), which mandates that such complaints must be forwarded to the Special Court constituted under Section 14 of the SC/ST Act. Instead, the complaint was wrongly entertained and disposed of by a Court not vested with jurisdiction under the Act.

14. This Court is of the considered view that the procedure adopted both by the learned Magistrate and the respondent police is in patent disregard of the statutory scheme under the SC/ST Act and the Rules framed thereunder. Such deviation from the mandatory safeguards undermines the rights of the victim and the purpose of the special legislation.



W.P.(Crl.) No.133 of 2025

WEB COPY

15. In light of the above, the order dated 24.02.2025 passed by the learned Judicial Magistrate No.II, Hosur, in Crl.M.P. No.4717 of 2024 is hereby set aside, having been passed without jurisdiction and in violation of the express provisions of the SC/ST Act and the Rules.

16. Considering the serious nature of the allegations involving offences under the SC/ST Act and in order to give full effect to the statutory scheme, this Court directs the fourth respondent to treat the petition filed under Section 156(3) Cr.P.C. before the learned Magistrate as a complaint under Section 154 Cr.P.C., and to register a First Information Report within a period of two weeks from the date of receipt of a copy of this order.

17. The fourth respondent shall entrust the investigation to himself or to any police officer not below the rank of Deputy Superintendent of Police having jurisdiction. The investigation shall be conducted in accordance with Rule 7(1) of the SC/ST Rules, 1995, and the final report/charge sheet shall be filed before the jurisdictional



WEB COPY

Special Court within 60 days, as mandated under Rule 7(2) of the said Rules.

18. Before parting with the matter, this Court considers it necessary to observe that not only in the present case, but in several other matters as well, similar procedural lapses under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, are being noticed. Therefore, the following direction is issued:-

The second respondent shall communicate a copy of this order through appropriate channels to all Superintendents of Police in the State, who shall, in turn, ensure strict compliance with the provisions of the SC/ST Act and the Rules, particularly Rule 7 relating to the rank of the Investigating Officer and the time-bound filing of the final report in all cases registered under the said Act.



W.P.(Crl.) No.133 of 2025

WEB COPY

19. With the above directions and observations, the Writ

Petition stands allowed.

01.07.2025

ksa-2

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



W.P.(Crl.) No.133 of 2025

WEB COPY

To

1. The Judicial Magistrate No.II,
Hosur, Krishnagiri
2. The Chief Secretary
Government of Tamil Nadu
Secretariat,
Fort St. George
Chennai - 600 009
3. The Director General of Police (DGP)
Tamil Nadu Police Headquarters
Mylapore,
Chennai - 600 004
4. The District Collector
O/o. District Collector
Krishnagiri District
5. The Registrar General,
High Court of Madras, Chennai.
6. The Public Prosecutor
High Court of Madras, Chennai



WEB COPY



W.P.(Crl.) No.133 of 2025

P.VELMURUGAN,J.

ksa-2

W.P.(Crl.) No.133 of 2025

01.07.2025