

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. OF 2026  
[Arising out of SLP(Crl.) No.19727/2025]**

**A.SHANKAR @ SAVUKKU SHANKAR**

**APPELLANT**

**VERSUS**

**THE SECRETARY TO GOVERNMENT & ORS.**

**RESPONDENTS**

**ORDER**

1. Leave granted.
2. This appeal is directed against the judgment and order<sup>1</sup> dated 29.07.2025 of dismissal of the appellant's writ petition<sup>2</sup> under Article 226 of the Constitution of India by a learned Judge of High Court of Judicature at Madras<sup>3</sup>.
3. Appellant had lodged a complaint<sup>4</sup> dated 8<sup>th</sup> February, 2025. This was followed by two other complaints<sup>5</sup> dated 23<sup>rd</sup> May, 2025 and 21<sup>st</sup> June, 2025. The common grievance in the latter two complaints appears to be that in gross abuse of power, false cases were being foisted on the appellant by the Commissioner of Police, Chennai<sup>6</sup> and investigation is being conducted in a premeditated manner to frame him. Intervention was, thus, sought to ensure prevention of such abuse of power.

<sup>1</sup> impugned order

<sup>2</sup> Writ Petition No. 255/2025

<sup>3</sup> High Court

<sup>4</sup> addressed to the Home Secretary, Government of Telangana

<sup>5</sup> addressed to the Chairperson, State Police Complaints Authority, Secretary, Home Department, Government of Tamil Nadu

<sup>6</sup> Commissioner

4. Alleging that the complaints lodged by him had not been looked into, the appellant presented the writ petition (out of which this appeal arises) seeking *inter alia* the following relief:

“It is therefore most respectfully prayed that this Hon’ble Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ order, or Direction, directing the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to take appropriate action on the Petitioner’s complaints dated 08.02.2025, 23.05.2025 and 21.06.2025 in accordance with the provisions of the Tamil Nadu Police (Reforms) Act, 2013 and further forbearing the 3<sup>rd</sup> Respondent from interfering with the functioning of the petitioner’s organization namely Savukku Media, Situated at No.1, Parthasarathy Nagar 3<sup>rd</sup> Street, Adambakkam, Chennai-600088, in any manner and to pass such further or other orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the and thus render justice.”

5. The learned Judge of the High Court, who heard the writ petition, found that the appellant figured as an accused in 37 (thirty-seven) cases. Charge-sheets having been filed, the appellant was facing prosecution in 24 (twenty-four) cases. In respect of the remaining 13 (thirteen), investigation was in progress. This was followed by an observation that the appellant had not placed any material to show that the Commissioner had been interfering with the functioning of the organization of the appellant.

6. Based on such finding, the learned Judge would have been justified in dismissing the writ petition without making any further observation. However, we find the following observations made in paragraphs ‘8’ and ‘9’ of the impugned order as follows:

“8. Since there are several cases pending against the petitioner, the jurisdictional police was (sic, is) directed to complete the investigation in the said 13 cases which are

pending investigation and file the charge sheet within a period of four months from the date of receipt of a copy of this order.

9. Further, the Courts concerned are directed to expedite the trial in the said 24 cases and dispose of the same within a reasonable time provided within a period of six months from the date of receipt of a copy of this order."

7. The observations, undoubtedly, place the appellant in a worse-off condition for having approached the writ court.

8. Mr. Balaji Srinivasan, learned counsel appearing for the appellant, has rightly placed reliance on the decision of a coordinate Bench of this Court in **P. Radhakrishnan and Another Vs. Cochin Devaswom Board and Others<sup>7</sup>**, where this Court reiterated the well settled principle that none can be put in a worse position for approaching the court of law and find himself in a position more disadvantageous than the position he was in, on the date he moved the court.

9. We are also taken aback by the direction made by the learned Judge for filing of charge-sheets by the investigating agency against the appellant.

10. As held by this Court in **Kunga Nima Lepcha v. State of Sikkim<sup>8</sup>**, it is not viable for a writ court to order initiation of investigation since such a role lies in the domain of the executive. This Court then proceeded to make the following observation:

**17.** It must also be borne in mind that there are provisions in the Code of Criminal Procedure which empower the courts of first instance to exercise a certain degree of control over ongoing investigations. The scope for intervention by the trial court is hence controlled by statutory provisions and it is not advisable for the writ courts to interfere with criminal

<sup>7</sup> 2025 SCC OnLine SC 2118

<sup>8</sup> (2010) 4 SCC 513

investigations in the absence of specific standards for the same.

11. The investigating officer has to investigate a crime by (i) proceeding to the spot, (ii) ascertaining the facts and circumstances of the case, (iii) discovering and arresting the suspected offender, (iv) collecting evidence relating to the commission of the offence which may consist of (a) examining various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit, and (b) searching places of seizure of things considered necessary for the investigation and to be produced at the trial, and thereupon (v) form the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and, if so, to take the necessary steps for the same by the filing of a charge-sheet under Section 173 of the Code of Criminal Procedure, 1973<sup>9</sup>/Section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>10</sup>, as the case may be.

12. The scheme of the Cr. PC/BNSS makes it clear that, although an officer in charge of a police station may depute a subordinate officer for performing certain investigative steps, the ultimate responsibility for each stage of the investigation rests with the officer in charge. This is evident from the express provision requiring that, where an investigation is conducted by a subordinate officer, the result thereof must be reported to the officer in charge of the police station. It is further manifest that the final and decisive step in the investigation, namely, the formation of an opinion as to whether or not there exists a case to place the accused on trial, must be taken by the officer in charge of the police

<sup>9</sup> Cr. PC

<sup>10</sup> BNSS

station. The statute contains no provision permitting the delegation of this function; it merely authorises superior officers to exercise supervision over the investigation.

13. What we have expressed above flows from the law laid down in **H.N. Rishbud v. State (Delhi Admn.)**<sup>11</sup>, which continues to hold the field.

14. Thus, filing of a charge-sheet necessarily has to be preceded by formation of a positive opinion by the officer investigating the crime that materials collected by him do warrant placing the accused for trial. If the opinion is in the negative, the officer has the discretion to recommend closure citing it to be a case of mistake of fact or otherwise.

15. If the high court directs, at a stage prior to conclusion of investigation, that a charge-sheet has invariably to be filed upon closure of investigation in a particular case irrespective of what the materials are which have been collected during investigation and without allowing the investigating officer to form his own opinion as regards the next course of action, that would take away the discretion of such officer and he would be left with no other option but to proceed in the direction as required by the high court under pain of threat of contempt. Other than very extreme cases, the high courts ought to exercise restraint and not issue such directions which foreclose the discretion of the executive.

16. Mr. Balaji complains that after the impugned order of the High Court, charge-sheets have been filed by the investigating officer in 2 (two) of the remaining 13 (thirteen) cases registered against the appellant giving him

<sup>11</sup> (1954) 2 SCC 934

reason to believe that the same is the direct result of the direction contained in paragraph '8' of the impugned order. He also contends that the appellant has serious apprehension of similar such acts being repeated. A fervent prayer is, thus, made to delete paragraph '8' of the impugned order and undo the charge-sheets filed in compliance therewith.

17. It is also contended that the learned Judge erred in directing completion of trial within 6 (six) months without ascertaining the progress in each trial. Again, an apprehension has been expressed of justice being derailed because of hasty trial. Prayer is made for deletion of paragraph '9' too.

18. Mr. Luthra, learned senior counsel for the respondents, in his usual fairness has not contested the contentions raised by Mr. Balaji, relying upon **P. Radhakrishnan** (supra). He, however, submits that the investigating officer(s) may be granted the liberty to proceed in accordance with law and form his/their own opinion as to the necessity of filing a charge-sheet, based on the materials collected or to be collected. With such observation, the appeal can be disposed of.

19. If any investigation is in progress, the accused generally cannot complain about its mode and manner before the writ court unless the First Information Report does not even *prima facie* disclose an offence or there are other vitiating factors and even then, only in rare cases can a writ court intervene to halt the investigation. It is the duty of the investigating officer to conduct free, fair and proper investigation and, thereafter, file an appropriate report in terms of Section 173, Cr. PC/Section 193, BNSS. If at all any procedure is given a go-bye in the process, the Cr. PC or the BNSS provides the remedy to the accused

which, alone, ordinarily ought to be pursued.

20. However, if the high court proceeds to make a direction that charge-sheets should be filed upon conclusion of investigation or that a trial should be concluded within a particular time-frame, without even attempting to ascertain the stage the trial has reached, the consequence of such an order could be far-reaching. The concept of a fair trial could be rendered a casualty. Directions of the nature made by the learned Judge amounts to improper exercise of writ jurisdiction and such an approach cannot but be disapproved by us.

21. We, thus, hold paragraphs '8' and '9' of the impugned order as absolutely unwarranted and uncalled for and direct its deletion therefrom. Any step taken by the investigating officer in terms of paragraph '8' shall be of no effect. The charge-sheets filed after the impugned order was passed shall stand set aside.

22. Insofar as those cases where investigation is either pending or stands reopened in view of this order, the investigating officer(s) shall proceed on the basis of whatever material he has/they have collected or could henceforth collect through the investigative process, form an opinion as to the necessity or otherwise of placing the appellant for trial and then file the appropriate report in terms of Section 173, Cr. PC/Section 193, B NSS, uninfluenced by any observation made by the learned Judge in the impugned order.

23. The trial courts shall also be free to proceed in accordance with law to conclude the trials.

24. We reiterate that it shall be open to the appellant to work out his remedy in accordance with law, if at all, any action adverse to his interest is taken by the investigating officer or any other police officer acting in furtherance of this

order.

25. The impugned order of dismissal of the appellant's writ petition is not interdicted and the appeal stands disposed of on the aforesaid terms.
26. Pending application(s), if any, shall also stand disposed of.

.....J.  
**[DIPANKAR DATTA]**

.....J.  
**[SATISH CHANDRA SHARMA]**

**NEW DELHI;**  
**JANUARY 16, 2026.**

ITEM NO.35

COURT NO.8

SECTION II-C

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**Petition for Special Leave to Appeal (Crl.) No. 19727/2025**

[Arising out of impugned final judgment and order dated 29-07-2025 in WPCRL No. 255/2025 passed by the High Court of Judicature at Madras]

**A.SHANKAR @ SAVUKKU SHANKAR**

**Petitioner(s)**

**VERSUS**

**THE SECRETARY TO GOVERNMENT & ORS.**

**Respondent(s)**

**Date : 16-01-2026 This matter was called on for hearing today.**

**CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA  
 HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA**

**For Petitioner(s) :Mr. Balaji Srinivasan, AOR  
 Mr. K. Gowtham Kumar, Adv.  
 Ms. Kanishka Singh, Adv.  
 Mr. Vishwaditya Sharma, Adv.  
 Mr. A.p. Balaji, Adv.**

**For Respondent(s) :Mr. Sidharth Luthra, Sr. Adv.  
 Mr. Sabarish Subramanian, AOR  
 Mr. K.S.badrinathan, Adv.**

**UPON hearing the counsel the Court made the following  
 O R D E R**

1. Leave granted.
2. The Criminal Appeal stands disposed of in terms of the signed order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

**(LOKESH ARORA)  
 SENIOR PERSONAL ASSISTANT**

**(SUDHIR KUMAR SHARMA)  
 COURT MASTER (NSH)**