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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.08.2026
DELIVERED ON : 26.10.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

Cont.P.No.872 of 2026; Rev.Aplwp. Crl. Nos.2 and 3 of 2026;
and WPMP.Crl. Nos.579, 653, 335 and 304 of 2026

Cont.P.No.872 of 2026:

I.S.Inbadurai
S/o.Inbanayagam,
Member of Parliment, Rajya Sabha
Tamil Nadu, Office at No.366,
2nd Floor, Old Shaw Wallace
Building, Thambu Chetty Street,
Chennai.

Petitioner(s)

Vs

A.T.Durai Kumar, IPS
The In-Charge Director,
Directorate of Vigilance and Anti-Corruption
(DVAC) No.293, MKN Road, Ramapuram,
Collectors Nagar, Alandur,
Chennai - 600 016.

Contemnor(s)

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Rev.Aplwp Crl.No.2 of 2026:

The State of Tamil Nadu,
Rep.by its Secretary to Government,
Home Department, Secretariat,
Chennai-600 009.

Appellant(s)

Vs

1. I.S.Inbadurai
   S/o.Inbanayagam,
   Member of Parliament, Rajya Sabha
   Tamil Nadu, Office at No.366,
   2nd Floor, Old Shaw Wallace Building,
   Thambu Chetty Street, Chennai.

2. The Director,
   Directorate of Vigilance and Anti-Corruption
   (DVAC), No.293, MKN Road, Ramapuram,
   Collectors Nagar, Alandur, Chennai-600016.

3. The Director General of Police,
   Tamil Nadu Police, Chennai - 600 004.

4. The Director of Enforcement,
   Rep. By Assistant Director
   Shastri Bhavan, 3rd Floor, 3 Block
   B-Wing, No.26, Haddows Road
   Chennai – 600 006.

5. K.N.Nehru
   Hon'ble Minister of Municipal Administration
   and Water Supply Department
   Residing at No.64/1, Luz Church Road
   Mylapore, Chennai – 600 004.

Respondent(s)

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Rev.Aplwp Crl. No. 3 of 2026:

K.N.Nehru
Honble Minister for MAWS Department,
Residing at No.64/1, Luz Chruch Road,
Mylapore, Chennai - 600 004.

Appellant(s)

Vs

1. I.S.Inbadurai
   S/o.Inbanayagam,
   Member of Parliament, Rajya Sabha,
   Office at N.366, 2nd Floor,
   Old Shaw Wallace Building,
   Thambu Chetty Street, Chennai.

2. The State of Tamil Nadu
   Rep by its Secretary
   Home Department, Secretariat
   Chennai - 600 009.

3. The Director,
   Directorate of Vigilance and
   Anti-Corruption (DVAC), No.293,
   MKN Road, Ramapuram, Alandur,
   Chennai - 600 016.

4. The Director General of Police,
   Tamil Nadu Police, Chennai - 600004.

5. The Director of Enforcement,
   Rep. by Assistant Director,
   Shastri Bhavan, 3rd Floor, 3 Block,
   B Wing, No.26, Haddows Road,
   Chennai - 600 006.

Respondent(s)

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PRAYER in Cont.P.No.872 of 2026: Petition filed under Section 11 of the Contempt of Courts Act to punish the respondent for the willful disobedience of the order passed by this Court made in W.P.(Crl) No.74 of 2026 dated 20.02.2026.

PRAYER in REV.APLWP Crl. No. 2 of 2026: Application filed under Order XLVII Rule 1 and 2 read with Section 114 of the Civil Procedure Code and Article 226 of the Constitution of India to review and set aside the judgment and order dated 20.02.2026 passed in W.P.(Crl).No.74 of 2026, grant an ad-interim stay of the direction to register an FIR, pending disposal of this review application and pass such other and further orders as this court may deem fit and proper in the facts and circumstances of the case.

PRAYER in REV.APLWP Crl. No. 3 of 2026: Application filed under Order XLVII Rule 1 and 2 read with Section 114 of the Civil Procedure Code and Article 226 of the Constitution of India to allow the Review Petition against the final order and judgment dated 20.02.2026 passed in in W.P.(Crl) No.74 of 2026 and pass such other and further order or orders as this Court may deem fit and proper.

For Petitioner(s): Mr.S.Tamilselvan
For Mr.N.Inbanathan
in Cont.P.No.872 of 2026

Mr.Vijay Narayan
Advocate General assisted by
Mr.J.Lenin, Spl. Govt. Pleader and
Mr.Akash Srinanda, Govt. Advocate
in Rev.Aplwp.Crl.No.2 of 2026

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Mr.Siddarth Luthra, Senior Counsel and
Mr.P.H.Arvindh Pandian, Senior Counsel
for Mr.Abishek Jenasenan
in Rev.Aplwp.Crl.No.3 of 2026

For Respondent(s): Mr.John Sathiyan, Public Prosecutor
Assisted by Mr.Arun Anbumani
for respondent in
Cont.P.No.872 of 2026
R3 in Rev.Aplwp.Crl.No.2 of 2026 and
R4 in Rev.Aplwp. Crl.No.3 of 2026

Mr.Siddhartha Dave
Senior Counsel
for Mr.Arun Anbumani
Additional Public Prosecutor
for R2 in Rev.Aplwp.Crl.No.2 of 2026 and
R3 in Rev.Aplwp. Crl.No.3 of 2026

Mr.V.Logesh
Special Public Prosecutor
for R4 in Rev.Aplwp.Crl.No.2 of 2026 and
for R5 in Rev.Aplwp.Crl.No.3 of 2026

Mr.S.Tamilselvan
for Mr. N.Inbanathan
for R1 in both Review Applications

Mr.Vijay Narayan
Advocate General assisted by
Mr.J.Lenin, Spl. Govt. Pleader and
Mr.Akash Srinanda, Govt. Advocate
for R2 in Rev.Aplwp Crl.No.3 of 2026

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COMMON ORDER

THE CHIEF JUSTICE

These three matters stem out of the same writ petition, being W.P.(Crl) No.74 of 2026, and the order we passed in it on 20.02.2026.

2. Since the facts overlap, we heard all these matters together and dispose of the same by this common judgment.

3. Cont.P.No.872 of 2026 is a contempt petition filed by the original writ petitioner, I.S.Inbadurai, complaining that the directions issued in the order dated 20.02.2026 passed in W.P. (Crl) No.74 of 2026 have been ignored.

4. Rev.A.No.2 of 2026 is a review filed by the State of Tamil Nadu against the same order. Rev.A.No.3 of 2026 is a review filed by K.N.Nehru, who was the fifth respondent in the writ petition.

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5. Before delving in, this court feels expedient to narrate a quick recap of how it all started. The Municipal Administration and Water Supply Department had invited applications for 2,538 posts, and appointments were made around July 2025. While investigating an unrelated bank fraud case, the Enforcement Directorate searched the residence of one K.N.Ravichandran, who happens to be the brother of K.N.Nehru, the Minister in charge of that very department. In the course of that search, the Enforcement Directorate claimed that it came across material, such as WhatsApp chats, hall tickets, screenshots, and even a curious method of using a Rs.10/- currency note to mark and track payments, suggesting the recruitment itself had been rigged. On 27.10.2025, the Enforcement Directorate forwarded this material, running to about 232 pages, to the Director General of Police under Section 66(2) of the Prevention of Money Laundering Act [for brevity, "*the PMLA*"], for whatever action the State thought fit.

6. As no action was initiated based on the said material, Inbadurai, a Member of the Rajya Sabha and a practising advocate, sent a representation dated 13.12.2025 to the Director, DVAC,

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asking that an FIR be registered against the Minister and the others named in the material supplied by the Enforcement Directorate. The said representation too did not educe any response, which necessitated him to approach this Court in W.P.(Crl) No.74 of 2026, asking for a mandamus directing registration of a case and a fair investigation.

7. This Court, by order dated 20.02.2026, directed the DVAC to register a case and carry out a detailed investigation. This court gave reasons at length in that order and see no necessity to repeat them here, beyond recalling the operative part of it, which reads thus:

> *"60. In view of the deliberations, though we are prima facie satisfied that the investigation could be entrusted to an independent specialized agency, considering the fact that the Vigilance Department has been entrusted with the case by the State, we deem it appropriate that the second respondent/ Vigilance Department should be directed to forthwith register a case and conduct a detailed investigation and take suitable further action based on the investigation report.*

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61. Accordingly, the second respondent/Vigilance Department is directed to forthwith register a case on the information shared by the Enforcement Directorate on 27.10.2025 under Section 66(2) of the Act and conduct a detailed expeditious investigation into the matter and proceed further in accordance to law."

8. In the said order, this Court rejected the objection that the writ petition was not maintainable because Inbadurai was not personally the source of the allegations. The Court noted that the complaint was really against high officials connected to the Minister, that the material had come from a statutory investigating agency rather than from a bald allegation, and that the Court would rather examine the matter on its own merits, than shut it out on a technicality.

9. Cont.P.No.872 of 2026 was filed by Inbadurai against the second respondent in the writ petition. It is pleaded that after the order dated 20.02.2026, his earlier representation was formally received and acknowledged by the respondent on 25.02.2026, yet no FIR followed, no reply came even to a legal notice dated

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25.02.2026, and every day of delay increases the risk of evidence being tampered with or destroyed. It is submitted that the inaction on the part of the respondent is willful disobedience of the order and seeks to punish the respondent for contempt.

10.1. Rev.A.No.2 of 2026 was filed by the State of Tamil Nadu under Order XLVII Rule 1 read with Section 114 CPC and Article 226 of the Constitution, *inter alia*, on the following grounds:

(a) that Section 66(2) of the PMLA only allows one authority to share information with another, it does not, by itself, compel the registration of a criminal case without the State applying its own mind;

(b) that a writ court does not ordinarily direct registration of an FIR and the proper remedy lies before the jurisdictional Magistrate under Section 175(3) of the BNSS, the successor to the old Section 156(3) Cr.P.C.;

(c) that Inbadurai was not really a complainant at all;

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(d) that a detailed enquiry against the persons named had already been registered on 12.12.2025, with the necessary prior approval under Section 17-A of the Prevention of Corruption Act [for brevity, "*the PC Act*"], and that this enquiry was very much alive when this Court passed the order, which is sought to be reviewed.

10.2. Reliance is placed on the decision of the Supreme Court in *Lalita Kumari v. Government of U.P.*[1], which treats corruption cases as one of the categories where a preliminary enquiry may come before an FIR, and on a recent judgment of the Supreme Court in *XXX v. State of Kerala*[2], which held that Section 175(4) of the BNSS requires the competent authority to first obtain a report from the superior officer of the public servant and hear the public servant's version before directing an investigation against him.

11.1. K.N.Nehru, who had been named as the fifth respondent in the writ petition, filed Rev.A.No.3 of 2026 questioning the order

1 *(2014) 2 SCC 1*
2 *2026 SCC OnLine SC 114*

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passed by the Division Bench on two grounds, viz., one about not being given a hearing, and the other about the correctness of direction to register an FIR.

11.2. On the question of hearing, it is pleaded that, on 28.01.2026, while the writ petition was being heard, the Court had specifically left open the question of whether notice should go to the review applicant herein, saying that the said issue "*shall be considered at appropriate stage*". The said question was never actually decided and instead, a notice was issued to him only on 02.02.2026 and reached him on 04.02.2026 at 1.47 p.m., the very day the case was reserved for orders. It is pleaded that he was given no real chance to answer the adverse material recorded against him and his relatives in the order sought to be reviewed.

11.3. On the merits, the grounds raised are that the predicate offence and the ECIR against Ravichandran had been quashed and the seized material returned to him; once that happened, the Enforcement Directorate had no further "*information or material in its possession*" of the kind Section 66(2) of the PMLA speaks of, and

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had become *functus officio*. Therefore, the communication of 27.10.2025 could not validly trigger anything. Even if it could, corruption cases are recognised in *Lalita Kumari* (supra) as a category where a preliminary enquiry may precede an FIR, and such an enquiry, which is a detailed one, sanctioned under Section 17-A of the PC Act and conducted under the Vigilance Manual, was already in progress. The newly settled position under Section 175(4) of the BNSS required that the review applicant be heard before any investigation could be directed against him. A writ of mandamus, in any event, is not the ordinary remedy for compelling registration of an FIR, which authority lies before the jurisdictional Magistrate under Section 175(3) of the BNSS. It is asserted that Inbadurai, being a political rival with no personal stake in the matter, had no standing to set the criminal law in motion against him.

11.4. It is pleaded that of the three first information reports said to have been registered pursuant to the material forwarded by the Enforcement Directorate, only two had in fact been made

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available to the review applicant, the third having been withheld and this fact, by itself, calls for closer scrutiny of the entire exercise.

11.5. Learned Senior Counsel drew support from a long line of decisions, including *Sakiri Vasu v. State of U.P.*[3], *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage*[4], *Divine Retreat Centre v. State of Kerala*[5], *M.Subramaniam v. S. Janaki*[6], *Vijay Madanlal Choudhary v. Union of India*[7], *Janata Dal v. H.S. Chowdhary*[8], and the decision of this Court in *D.Kumar v. Raichand Daga*[9], besides *Lalita Kumari* (supra) and the *XXX* (supra) on Section 175(4) of the BNSS, as also *Johra v. State of Haryana*[10].

11.6. In addition, reference was made to Rules 20, 24, 25 and 29, and Rules 3(7) and 17(3), of the Madras High Court Writ Rules, 2021 in support of the submission that these Rules framed by this Court under Article 225 of the Constitution and Clause 37 of the Letters Patent to regulate proceedings under Article 226, expressly

3 *(2008) 2 SCC 409*
4 *(2016) 6 SCC 277*
5 *(2008) 3 SCC 542*
6 *(2020) 16 SCC 728*
7 *(2023) 12 SCC 1*
8 *AIR 1993 SC 892*
9 *2020 SCC OnLine Mad 12156*
10 *(2019) 2 SCC 324*

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provide for review of an order in a writ petition, without excluding a petition of a criminal nature merely because Rule 3(7) requires such a petition to be titled "W.P.(Crl.)"; that Rule 25(1) of the Rules contemplates the Court hearing any person "*who desires to be heard in support or opposition to the petition ... notwithstanding that he has not been served with notice*"; that Rule 20 of the Rules sets out the modes by which notice is to be served and requires proof of service where a mode other than through the Registry is used; that Rule 24 of the Rules fixes the time for filing a counter-affidavit once notice issues; and that Rule 17(3) of the Rules, which sends a W.P.(Crl.) to the Judge hearing petitions under Section 482 Cr.P.C. or as the Chief Justice may direct, shows that such a petition remains, for every other purpose, a writ petition governed by these Rules and nothing else.

11.7. An application, W.P.M.P.(Crl) No.579 of 2026, was moved to amend the prayer in the review so as to seek "*review and/or recall*" of our order.

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11.8. In the written arguments, the review applicant asserts that that although every ground in the memorandum remains on record, what was actually argued at the hearing was confined to one point that he was denied a hearing before an order prejudicial to him was passed, and that this alone justifies recalling it.

12. When these matters were taken up by us, learned Advocate General, on instructions, made a clear statement that the Government does not wish to press Rev.A.No.2 of 2026 and that they have already registered an FIR and no precipitative action was taken, based on the direction issued by this court.

13. The aforesaid submission made by learned Advocate General was resisted by Mr.Siddarth Luthra, learned Senior Counsel, by submitting that the State, having taken a considered stand in Rev.A.No.2 of 2026 to the effect that Section 66(2) of the PMLA does not compel registration of an FIR; that the remedy lies under Section 175(3) of the BNSS; and that a detailed enquiry sanctioned under Section 17-A of the PC Act was already in progress, could

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not, upon a mere change of the Government in office, abandon that stand. Describing this as a case of the State seeking to approbate and reprobate, learned Senior Counsel relied on *A.P.Dairy Development Corpn. Federation v. B. Narasimha Reddy*[11] and *State of T.N. v. K.Shyam Sunder*[12], for the position that the State, being a continuing body within the meaning of Article 12 of the Constitution, must ordinarily carry forward the stand taken by a previous Government, and that a change of stand occasioned only by a change in the ruling party is impermissible, as no political agenda should be allowed to undermine the rule of law.

14. We are unable to accept this submission. The very decisions relied upon recognise the exception that applies here. At this juncture, it is apposite to reproduce the relevant paragraph of the decision in *A.P.Dairy Development Corpn. Federation* (supra) hereunder:

> *"40. In the matter of the Government of a State, the succeeding Government is duty-bound to continue and carry on the unfinished job of the previous Government, for the reason that the action is that of*

11 *(2011) 9 SCC 286*
12 *(2011) 8 SCC 737*

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the "State", within the meaning of Article 12 of the Constitution, which continues to subsist and therefore, it is not required that the new Government can plead contrary to the State action taken by the previous Government in respect of a particular subject. ***The State, being a continuing body can be stopped from changing its stand in a given case, but where after holding enquiry it came to the conclusion that action was not in conformity with law, the doctrine of estoppel would not apply.*** *Thus, unless the act done by the previous Government is found to be contrary to the statutory provisions, unreasonable or against policy, the State should not change its stand merely because the other political party has come into power.* ***"Political agenda of an individual or a political party should not be subversive of rule of law." The Government has to rise above the nexus of vested interest and nepotism, etc. as the principles of governance have to be tested on the touchstone of justice, equity and fair play. The decision must be taken in good faith and must be legitimate.*** *(Vide Onkar Lal Bajaj v. Union of India [(2003) 2 SCC 673], State of Karnataka v. All India Manufacturers*

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Organisation [(2006) 4 SCC 683] and State of T.N. v. K. Shyam Sunder [(2011) 8 SCC 737].)"

[*emphasis supplied*]

15. The decisions in *A.P.Dairy Development Corpn. Federation* (supra) and *K.Shyam Sunder* (supra) make it clear that the State may depart from an earlier position where persisting with it would mean continuing an action not in conformity with law, and that the doctrine of estoppel does not bind the State to an untenable stand merely because a different Government took it. What these decisions caution against is a change of position for its own sake, to serve a political interest at the expense of legality and not the surrender of a legally doubtful objection to compliance with an order of this Court.

16. The withdrawal of Rev.A.No.2 of 2026 on the ground that case has already been registered in compliance with the direction of this Court and the authorities would investigate the alleged offence, does not constitute a subversion of the rule of law. On the contrary, continuing to resist registration after the Government itself has

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chosen not to press the objection would undermine the rule of law far more severely than relinquishing the challenge.

17. We would add that this is, in any event, not a question that turns on a comparison of the previous and the present Government's positions on adversarial facts. It is simply a question of whether the applicant, in its own review application, wishes to carry that review forward. A litigant, including the State, remains free to withdraw a proceeding it has itself instituted. The doctrine invoked by Mr.Siddarth Luthra, learned Senior Counsel, restrains a party from taking inconsistent positions against another party to secure an advantage, not from abandoning an objection it no longer considers sustainable.

18. We may also note, since *Kedar Nath Yadav v. State of W.B.*[13] was cited to us as well, that the Supreme Court there held clearly that a stand taken by the State can be departed from, where there is material to show that the earlier action suffered from illegality or was otherwise unsustainable, and that this Court, in

13 *(2017) 11 SCC 601*

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examining such questions, is not confined to the affidavits filed by the parties. Judged by that standard too, we see nothing in the record to suggest that the State's earlier resistance to our order rested on ground so solid that its abandonment calls for any further scrutiny by us.

19. In our view, therefore, nothing turns, for the purposes of Rev.A.No.2 of 2026, on the change of Government, and the submission that the State is seeking impermissibly to approbate and reprobate does not survive.

20. Once learned Advocate General submits, on instructions, that the Government no longer wishes to pursue the review and will instead comply with our order, nothing further remains to be decided on that application. We record that statement and permit Rev.A.No.2 of 2026 to be withdrawn.

21. The same assurance was extended to the contempt petition. Learned State Public Prosecutor submitted that the case has already been registered and the authorities would take the

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investigation forward without further delay, in terms of the directions already issued. Learned counsel for contempt petitioner, while pointing out the hardship the delay had already caused, did not press for any punitive order once this assurance was placed on record, and left the matter to the court.

22. Apropos of Rev.A.No.3 of 2026, the submission of Mr.Siddarth Dave, learned Senior Counsel appearing for the DVAC, was, in substance, fourfold:

(i) A person named as a proposed accused has, on a long and consistent line of authority, no right to notice or a hearing before an order directing registration of an FIR. He added that neither a Magistrate acting under Section 156(3) Cr.P.C., now Section 175(3) BNSS, nor a writ court acting under Article 226 of the Constitution of India, hears the person sought to be investigated, and the only exception recognised is where some vested right has already accrued.

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(ii) The order of this Court having finally decided the writ petition and directed registration of a case, with consequences that are criminal and not civil, no review or recall lies at all. Order XLVII Rule 1 CPC, framed for civil proceedings, has no place in a criminal matter, and Section 362 Cr.P.C./Section 403 BNSS specifically bars a criminal court from altering or reviewing its own judgment, a bar that Section 482 Cr.P.C. cannot be used to bypass.

(iii) The limited category of case in which recall has been permitted is confined to orders dismissed *in limine,* for non-prosecution, absence of locus, or the like, where nothing has been decided on merits; whereas the order passed by this Court was purely on merits and a detailed one.

(iv) Several of the decisions relied upon by the review applicant, including *Vikram Bakshi v. R.P.Khosla and another*[14], in fact support the proposition that no criminal court can review its own

14 *2025 SCC OnLine SC 1783*

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judgment. Learned Senior Counsel added that the review applicant, having been named in the FIR, remains free to challenge it in the ordinary course, and that to hold otherwise would mean no FIR could ever be registered against anyone without first hearing every person likely to be named in it.

23. Mr.Vijay Narayan, learned Advocate General, submitted that:

(i) This Court, in leaving open the question of issuance of notice to the fifth respondent in the writ petition/review applicant, was conscious throughout that a proposed accused has no right to be heard before such a direction is made, and did not, for that reason, consider it necessary to issue notice before reserving orders. He also submitted that the review petitioner, being the senior-most Minister in the then Government and as subject matter was in continuous public and press attention, cannot credibly claim to have been unaware of the proceedings;

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(ii) Having received notice on 04.02.2026, while orders pronounced only on 20.02.2026, the review applicant had sixteen days and made no attempt to bring anything on record or to seek a reopening of the hearing.

(iii) A person who, with knowledge of a pending proceeding, chooses to wait and see how it turns out before complaining, cannot later be heard to plead denial of natural justice.

24. Mr.Siddarth Luthra, learned Senior Counsel, in reply, submitted that a person named as a respondent in a writ petition, against whom adverse observations come to be recorded, cannot be left out of the hearing, and that failure alone is enough to require recall of our order.

25. Before we go further, we must deal with the more fundamental objection raised by Mr.Siddarth Dave and the learned Advocate General that no review lies at all against an order passed in a writ petition of this description, Order XLVII Rule 1 CPC having

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no application to a proceeding that is, in substance, criminal, and Section 362 Cr.P.C./Section 403 BNSS specifically barring any alteration of such an order.

26. We are unable to accept the aforesaid submission. The order under review was not passed by a criminal court trying a criminal case; it was passed by this Court in the exercise of its jurisdiction under Article 226 of the Constitution of India, upon a petition that carries the title "W.P.(Crl.)" only because Rule 3(7) of the Madras High Court Writ Rules, 2021 requires a petition whose cause of action relates to criminal proceedings to be so titled. Rule 1(4) of these Rules makes them applicable to every petition under Article 226 of the Constitution of India, drawing no distinction between one of a civil and one of a criminal complexion. Rule 29(1) of the Rules provides, in terms, that this Court may review its orders on the grounds mentioned in Order XLVII Rule 1 CPC; and Rule 25(1) of the Rules contemplates this Court hearing any person who desires to be heard in support of or in opposition to a petition, even one not served with notice. These Rules were framed by this Court itself, under Article 225 of the Constitution and Clause 37 of

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the Letters Patent, precisely to regulate proceedings of this kind, and nowhere do they exclude a W.P.(Crl.) from the scope of Rule 29. Section 362 Cr.P.C. and Section 403 BNSS bar a criminal court, viz., a Court exercising jurisdiction under that Cr.P.C, from reviewing or altering its own judgment; neither provision purports to, nor could it, cut down the review contemplated by this Court's own Rules in the exercise of its writ jurisdiction, a jurisdiction the Cr.P.C. does not create and cannot curtail.

27. This view is consistent with the ruling of a Division Bench of this Court in *D.Kumar v. Raichand Daga* (supra), which affirms that this Court, as a court of record, may recall an order passed in a writ petition where it was passed without hearing a person it affects, without drawing any distinction on the ground that the writ petition was one of a criminal nature; and with the several decisions noticed below, including *Vishnu Agarwal v. State of Uttar Pradesh*[15], holding that Section 362 Cr.P.C. is no bar to a recall of this kind. We, accordingly, hold that Rev.A.No.3 of 2026, though arising out of a W.P.(Crl.), was maintainable as a petition for review under Rule 29

15 *(2011) 14 SCC 813*

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of the Madras High Court Writ Rules, 2021, tested on the grounds available under Order XLVII Rule 1 CPC.

28. We should also deal with the submission that recall is available only where the order under challenge was one of dismissal *in limine*, leaving nothing decided on merits. We do not think the power is so confined. The same may be one familiar occasion for recall, but neither Rule 29 of the Rules nor the decisions cited before us, on either side, limits the power to that occasion alone. The real question on any application founded on denial of hearing is whether the person complaining was, on the facts, entitled to a hearing and was denied it, and not the stage at which, or the extent to which, the order under challenge decided matters on merits. We shall examine the review applicant's case on this footing.

29. Two things weigh with us here. First, the order was reserved on 04.02.2026 and pronounced only on 20.02.2026, and admittedly there was a gap of more than two weeks. If the review applicant, once notice reached him, wished to bring anything to attention of this Court, nothing stopped him from moving an

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application in that window of 16 days. No such attempt was made. This, in substance, fortifies the submission of learned Advocate General that the review applicant sat by and watched the proceedings before complaining.

30. Second, all that the Court directed was the registration of a case and an investigation, nothing more. The Court did not, and at that stage could not, decide anyone's guilt. The observations record the case of the Enforcement Directorate, not any conclusion of this Court on it. Whether that material holds up, and whether the review applicant or his relatives had any part in what is alleged, are questions for the investigation to answer, and thereafter for a criminal court to decide, and this Court never intended to settle those questions in a writ petition that asked only for a case to be registered.

31. Succinctly put, a direction to register an FIR is not a finding against anyone. It only starts the process of investigation, and it is during that investigation, and at trial if matters go that far, that the review applicant will have every opportunity to place his

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version and test the case against him. Being denied a hearing before that process even begins is not the kind of prejudice that calls for recalling an otherwise reasoned order. We are not persuaded that the delay in serving notice on the review applicant, amounts to a breach of natural justice to recall the order.

32. This brings us to the authorities placed before us on the plea of not affording a hearing and they deserve to be dealt with.

33. A large number of the decisions cited, viz., *Alexander Rodger v. The Comptoir D'Escompte De Paris*[16], approved in *A.R.Antulay v. R.S. Nayak*[17], *Shivdev Singh v. State of Punjab*[18], *M.M.Thomas v. State of Kerala*[19], *Crown v. Habibullah*[20], *Ram v. Emperor*[21], *M.V. Elisabeth v. Harwan Investment & Trading Pvt. Ltd*[22], *The Bolivar*[23], and *Grindlays Bank Ltd. v. Central Government Industrial Tribunal*[24], are all in support of a single proposition that a

16 *[1871] 3 Privy Council 465*
17 *(1988) 2 SCC 602*
18 *AIR 1963 SC 1909*
19 *(2000) 1 SCC 666*
20 *AIR 1950 Lah 250*
21 *AIR 1948 All 106*
22 *1993 Supp (2) SCC 433*
23 *AIR 1916 PC 85*
24 *1980 (Supp) SCC 420*

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court of record has an inherent power to recall its own order where the order was passed without hearing a person it affects, or in ignorance of the fact that a necessary party was never served. We do not doubt that proposition for a moment, and nothing in this judgment departs from it.

34. The decisions relied upon by learned Senior Counsel for the review applicant in *Asit Kumar Kar v. State of West Bengal*[25], *Giridharilal v. Pratap Rai Mehta*[26], and *Habu v. State of Rajasthan*[27], together with *Vishnu Agarwal* (supra), *Vikram Bakshi* (supra), *Ganesh Patel v. Umarkant Rajoria*[28], and *Homi Rajvansh v. State of Maharashtra*[29], establish that Section 362 of the Cr.P.C. is no bar to such a recall where the order under recall was passed by a court exercising writ jurisdiction. We accept that too, and have already applied it in rejecting the threshold objection raised on behalf of the State and the contempt petitioner.

25 *(2009) 2 SCC 703*
26 *1989 Cr LJ 2382 (Kar)*
27 *AIR 1987 Raj 83 (FB)*
28 *2022 SCC OnLine SC 2050*
29 *(2014) 12 SCC 556*

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35. None of this is really in dispute before us. What is in dispute is whether, on the facts of this case, the review petitioner was in substance denied a hearing he was entitled to, and, for the reasons we have already given, we do not think he was. The power to recall is not in question, its use on these facts is.

36. The decisions in *Govind Gopal Lakade v. State of Maharashtra*[30] and *Johra v. State of Haryana*[31] were cited for the proposition that a court cannot frame a question and then simply leave it hanging. We agree with that general proposition, but it does not quite fit the facts of the present case. On 28.01.2026 this Court did not decide, one way or the other, whether notice should go to the fifth respondent/review applicant and left it open. A notice was, in fact, issued to him on 02.02.2026. The real grievance, if any, lies in that delay of service, not in any failure to decide whether notice should be issued at all.

30 *2025 INSC 658*
31 *(2019) 2 SCC 324*

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37. A good deal was said about the decision of the Supreme Court in *State of Punjab v. Davinder Pal Singh Bhullar*[32], with the suggestion that the State had relied on it while passing over the parts that helped the review petitioner. We have read the judgment as a whole. It concerned an order transferring a criminal investigation to the CBI, a direction with immediate and specific consequences for the State, which had not been heard before the transfer was made. The State there was the very party bound by the direction, yet was kept out of the proceeding. That is quite different from the present case. The direction here went to the DVAC, which was a party before us throughout. The review applicant was not the addressee of any direction, he was, at best, a person named in material that the Enforcement Directorate had forwarded and that formed the basis for a direction to someone else. We do not read the decision in *Davinder Pal Singh Bhullar* (supra) as extending so far as to require a hearing for every person referred to in such material before a case can be directed to be registered.

32 *(2011) 14 SCC 770*

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38. The decision in *Divine Retreat Centre* (supra) was cited for the proposition that a person aggrieved by an order is entitled to a hearing before it is passed against him. The said judgment, also considered the earlier decision in *Union of India v. W.N.Chadha*[33], which the State had relied upon for the proposition that a person under investigation, or likely to be investigated, has no right to notice or a hearing before an FIR is registered or an investigation is set in motion, since to hold otherwise would defeat the object of investigation itself. Relevant observations made in *W.N.Chadha* (supra) are reproduced herein below:

> *"80. The rule of audi alteram partem is a rule of justice and its application is excluded where the rule will itself lead to injustice. In S.A. de Smith's Judicial Review of Administrative Action, (4th Edn.) at page 184,* ***it is stated that in administrative law, a prima facie right to prior notice and opportunity to be heard may be held to be excluded by implication in the presence of some factors, singly or in combination with another. Those special factors are mentioned under items (1) to (10) under the heading "Exclusion of the audi alteram partem rule****".*

33 *1993 Supp (4) SCC 260*

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81. Thus, ***there is exclusion of the application of audi alteram partem rule to cases where nothing unfair can be inferred by not affording an opportunity to present and meet a case. This rule cannot be applied to defeat the ends of justice or to make the law "lifeless, absurd, stultifying and self-defeating or plainly contrary to the common sense of the situation" and this rule may be jettisoned in very exceptional circumstances where compulsive necessity so demands****.*

82. Bhagwati, J. (as the learned Chief Justice then was) in Maneka Gandhi [(1992) 4 SCC 305 : 1993 SCC (Cri) 36] speaking for himself, Untwalia and Murtaza Fazal Ali, JJ. has stated thus: (SCC p. 290, para 14)

> *"… Now, it is true that since the right to prior notice and opportunity of hearing arises only by implication from the duty to act fairly, or to use the words of Lord Morris of Borth-y-Gest, from 'fair play in action',* ***it may equally be excluded where, having regard to the nature of the action to be taken, its object and purpose and the scheme of the relevant statutory***

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provision, fairness in action does not demand its implication and even warrants its exclusion."

83. Thus, it is seen from the decision in Maneka Gandhi [(1978) 1 SCC 248] that ***there are certain exceptional circumstances and situations whereunder the application of the rule of audi alteram partem is not attracted****.*

...

89. Applying the above principle, it may be held that ***when the investigating officer is not deciding any matter except collecting the materials for ascertaining whether a prima facie case is made out or not and a full enquiry in case of filing a report under Section 173(2) follows in a trial before the Court or Tribunal pursuant to the filing of the report, it cannot be said that at that stage rule of audi alteram partem superimposes an obligation to issue a prior notice and hear the accused which the statute does not expressly recognise. The question is not whether audi alteram partem is implicit, but whether the occasion for its attraction exists at all****.***

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> *90.* ***Under the scheme of Chapter XII of the Code of Criminal Procedure, there are various provisions under which no prior notice or opportunity of being heard is conferred as a matter of course to an accused person while the proceeding is in the stage of an investigation by a police officer.***"
>
> [*emphasis supplied*]

39. We find *W.N.Chadha* (supra) squarely applicable here, and we find it reinforced by the more recent decision in *E.Sivakumar v. Union of India*[34], where, in upholding an order transferring the investigation of a multi-State offence to the CBI, the Supreme Court held that the accused has no right to be heard at the stage of investigation, and that a person named as an accused not having been impleaded or heard in the writ petition cannot, by itself, be the basis to treat the resulting judgment as a nullity. Whether the proceeding is brought under the ordinary criminal law or under Article 226 of the Constitution of India makes no real difference to this principle, because what matters is the nature of the order, not the forum that passes it. A direction to register a case and

34 *(2018) 7 SCC 365*

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investigate is, by its very character, a preliminary step. It settles nobody's guilt, and it need not await the version of every person who might eventually come to be investigated. The review applicant will have his say, in full, once the investigation reaches him.

40. We were also taken to *XXX v. State of Kerala* (supra), the recent judgment on Section 175(4) of the BNSS, and it was suggested that this provision required the review applicant to be heard before the Court could direct a case to be registered against him. We had occasion to consider this very judgment while dealing with the State's review, and we do not think it carries the review applicant any further either. Section 175(4) of the BNSS stipulates the procedure a Magistrate must follow before directing an investigation on a complaint made under Section 175(3) of the BNSS. It requires the Magistrate to call for a report from the public servant's superior and consider his version. That is a specific safeguard built into a specific statutory procedure. It is not, in our view, a general right of pre-decisional hearing attaching itself to every proceeding, of whatever kind, that might in due course lead to a police investigation, and we do not think it applies to a writ

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court acting on information already forwarded by a statutory agency showing, *prima facie*, a cognizable offence.

41. For these reasons, Rev.A.No.3 of 2026 fails and is dismissed.

42. In Cont.P.No.872 of 2026, the complaint is that the order of this court dated 20.02.2026 had not been obeyed. With Rev.A.No.2 of 2026 now withdrawn, and with learned Advocate General placing on record a clear assurance that the authority concerned shall carry the investigation forward based on the FIR registered, the very grievance behind the contempt petition stands met. We see no purpose in keeping the contempt petition alive.

43. We, accordingly, close Cont.P.No.872 of 2026.

In conclusion:

(i) Rev.A.No.2 of 2026 is dismissed as withdrawn.

(ii) Rev.A.No.3 of 2026 is dismissed.

(iii) Cont.P.No.872 of 2026 is closed in the above terms.

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(iv) There shall be no order as to costs.

(v) Connected miscellaneous petitions, if any, stand closed, in the light of the observations made in the preceding paragraphs.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
26.10.2026

Index : Yes
Neutral Citation : Yes
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To:

1. The Director,
   Directorate of Vigilance and Anti-Corruption
   (DVAC), No.293, MKN Road, Ramapuram,
   Collectors Nagar, Alandur, Chennai-600016.

2. The Director General of Police,
   Tamil Nadu Police, Chennai - 600 004.

3. The Director of Enforcement,
   Rep. By Assistant Director
   Shastri Bhavan, 3rd Floor, 3 Block
   B-Wing, No.26, Haddows Road
   Chennai – 600 006.

4. The Secretary
   State of Tamil Nadu
   Home Department, Secretariat
   Chennai - 600 009.

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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

Cont.P.No.872 of 2026; Rev.Aplwp. Crl. Nos.2 and 3 of 2026

26.10.2026

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