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CRL OP No. 21612 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-08-2026

CORAM:

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.OP.No.21612 of 2026

and CRL.MP.No.14349 of 2026

1.Dhandapani

2.Kishore

..Petitioner(s)

Vs.

1.The Inspector of Police,
Negamam Police Station,
Coimbatore District.
(Crime No.407/2021)

..Respondent(s)

Prayer: Criminal Original Petition filed under Section 528 of BNSS, praying to call for the records and quash the First Information Report pending on the file of the 1st respondent police in Crime No.407 of 2021, dated 28.08.2021.

For Petitioner(s) : Mr.Hasan Mohammed Jinnah (Senior Advocate)
assisted by Ms.J.R.Archana
Ms.T.Harshana
for Mr.S.Udayakumar

For Respondent(s) : Mr.M.Mohamed Riyaz
Government Advocate (Crl.Side)



ORDER

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The prayer in this criminal original petition is to quash the First Information Report (FIR) in Crime No.407 of 2021, pending on the file of the first respondent police.

2. Upon a perusal of the allegations contained in the FIR, it is alleged that the accused persons, by employing heavy machinery, quarried in a patta land in Survey No.618/1 etc. Consequently, the case was registered for the alleged offences under Section 379 of the Indian Penal Code (IPC) and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 [hereinafter referred to as 'the MMDR Act'].

3. The learned Senior Advocate appearing on behalf of the petitioners submitted that, as far as the offence under Section 379 of the IPC is concerned, the names of the owners of the land in question are explicitly mentioned in the FIR itself, which belongs to the second petitioner/A2. His father's name, Hari, is mentioned as one of the co-owners of the said extent of land. He further submitted that even the other co-owners are not aggrieved by the extraction of the earth and the sole allegation is that the earth was extracted without permission under the MMDR Act. Therefore, he submitted that the ingredients of the offence under



Section 379 of the IPC are not made out.

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4. As far as the offence under Section 21(1) of the MMDR Act is concerned, the learned Senior Advocate submitted that the matter is no longer *res integra*, having been settled by the Hon'ble Full Bench of this Court in ***S. Kumar Vs. The District Collector & others [2023 (4) CTC 113]***. In the said judgment, this Court held that, in the absence of any other offence punishable under the IPC or other penal statutes, a standalone offence under the Act cannot be taken cognizance of except by way of a private complaint filed by the empowered Authorised Officer. Though the Court held that there was no impediment to the police officers registering the case while acting as the empowered Authorised Officer, the registration of an FIR and the subsequent filing of a final report cannot be treated as a private complaint. A separate private complaint ought to have been filed with reference to the offence under the Act.

5. *Per contra*, the learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the offence under the Act is punishable with a maximum imprisonment of five years. He contended that even if the FIR is quashed, liberty should be preserved for the appropriate authority to file a private complaint.



6. This Court has considered the rival submissions made on either side and perused the materials available on record.

7. From the averments made in the FIR itself, it is evident that the land does not belong to any third party or the Government, and it is not a case where the earth was extracted clandestinely from public property. Regarding the offence under Section 379 of the IPC, it is seen that the FIR was registered in the year 2021. Even though the statutory period of limitation has elapsed, no final report was filed within a period of three years; instead, it was belatedly filed only in the fourth year. Even then, cognizance has not been taken till date. By virtue of the provisions under Section 468 of the Code of Criminal Procedure, 1973 (CrPC), the proceedings are liable to be quashed insofar as the offence under Section 379 of the IPC is concerned, as the FIR can no longer be kept pending after the expiration of the limitation period.

8. As far as the offence under Section 21(1) of the MMDR Act is concerned, as laid down by the Hon'ble Full Bench of this Court, the Court can take cognizance of the offence only by way of a private complaint.



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9. Therefore, while granting liberty to the very same authority that registered the FIR, to file a private complaint in their capacity as the competent officer, the further proceedings in the FIR in Crime No.407 of 2021 and the unnumbered final report shall stand quashed. Accordingly, this criminal original petition stands allowed. Connected miscellaneous petition is closed.

06-08-2026

Neutral Citation: Yes

Sni

To

1.The Inspector of Police,
Negamam Police Station,
Coimbatore District.

2.The Public Prosecutor,
High Court of Madras.



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D. BHARATHA CHAKRAVARTHY, J.

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