



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.(MD) No.10084 of 2022

and

Crl.M.P(MD) Nos.6307 and 6308 of 2022

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1. J.Yesudhas,

2. Glory Bai,

: Petitioners/Accused Nos 1 & 2  
Vs

The State represented by  
The Inspector of Police,  
Puthukadi Police Station,  
Kanyakumari District.  
Crime.No. 449 of 2021.

: Respondent/Complainant

**PRAYER:** Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records in connection with P.R.C.No. 18 of 2022 on the file of the learned Judicial Magistrate Court No.II, Kuzhithurai and quash the same in respect of the petitioners alone and illegal.

For Petitioner : M/s. Velavadas.H,  
For Respondent : Mr.E.Antony Sahaya Prabakar,  
Additional Public Prosecutor

### ORDER

This criminal original petition has been filed seeking to quash the charge sheet in P.R.C.No. 18 of 2022 on the file of the learned Judicial Magistrate Court No.II, Kuzhithurai.

2.The learned Counsel appearing for the petitioner submitted that the respondent police has prosecuted the petitioners based on the allegation that on 28.10.2021, the first accused/Yesudhas taken the red soil in lorry, Registration No.TN 61 B 8300, which is owned by Glory Bai, unauthorizedly without any permission and charged for the offence punishable under section 379 of IPC. But in fact, the quarry owner, namely, Boopathy got permission from the District Collector as per the Rule 36 of Tamil Nadu Minor Mineral Concession Rules, 1959 and permitted the owner/Boopathy to give a pass by mentioning the lorry Registration No.TN 61 B 8300, for taking red sand, on 28.10.2021 at about 10.00 am. Further, he stated that the permit pass has also been filed along with the typed set of paper. Under these circumstances, being legally permitted to take red sand, he cannot be charged under Section 379 of IPC.



3.The learned Additional Public Prosecutor submitted that the Manager of the quarry, namely, Maharajan, gave a statement before the police that they have not issued the said alleged pass, which has been produced by the petitioners.

4.On a perusal of records it is seen that the petitioners are charged and prosecuted by the respondent police, for having committed theft of red soil, on 28.10.2021. They had taken the red soil in the Lorry Registration No.TN.61 B 8300, owned by Glory Bai/A2 and it is clear that the quarry owner/Boopathy gave a pass to the accused persons to take the red soil in the said lorry. In the same lorry, on 28.10.2021 at about 10.00 am, based on that pass, the petitioners had taken the red soil. But, according to the learned Additional Public Prosecutor, the Manager of the quarry/Maharajan gave a statement that the petitioners were not permitted to take the red soil from the quarry. However, on a perusal of charge sheet, it reveals that the said Maharajan has not been stated as a witness to support this case. Under these circumstances, I find no merits in the learned Additional Public Prosecutor's submission that the Manager of the quarry gave a contra statement against the petitioners.

5.Therefore, the charge sheet filed in P.R.C.No.18 of 2022, on the file of the learned Judicial Magistrate Court No.II, Kuzhithurai is quashed. Accordingly, this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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/06/2022

Sub Assistant Registrar(CS)

lr

To

1. The Judicial Magistrate Court No.II, Kuzhithurai

2.The Inspector of Police,  
Puthukadi Police Station,  
Kanyakumari District.

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



+1 CC to M/s.H.VELAVADHAS, Advocate ( SR-25511[F] dated 14/06/2022 )

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