



Crl.O.P.(MD) No.1673 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.1673 of 2024

and

Crl.M.P.(MD) Nos.1192 & 1193 of 2024

Thangapandi

... Petitioner

Vs.

1.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
Crime No.585 of 2021.

2.Chandra Kasan
Special Revenue Tahsildar,
Geography and Mining,
Tirunelveli District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records of the impugned proceedings in C.C.No.1564 of 2022 on the file of the learned Judicial Magistrate No.1, Tirunelveli and quash the same as against this petitioner as illegal.

For Petitioner : Mr.K.Jeyamohan

For R1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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Crl.O.P.(MD) No.1673 of 2024

For R2

: No appearance

ORDER

This Criminal Original Petition has been filed to quash the final report filed by the first respondent against the petitioner for the offence punishable under Section 379 of the IPC, in C.C. No.1564 of 2022, on the file of the learned Judicial Magistrate No.1, Tirunelveli.

2. The allegation in the final report is that on 28.08.2021, at about 07:45 a.m., the petitioner, without a proper transit pass, transported 8 units of M-sand in a lorry bearing Registration No.TN-96-4542, along with A2, who had taken the said lorry belonging to one Raju on lease. The complaint was lodged by the second respondent, who is the Special Revenue Tahsildar of Geology and Mining, stating that when he and his team were on patrol duty, they saw the petitioner driving the said lorry carrying M-sand without proper transit pass. The first respondent, after investigation, filed the final report for an offence punishable under Section 379 of the IPC against the petitioner and his employer, who has been arrayed as A2.



Crl.O.P.(MD) No.1673 of 2024

3. The learned counsel for the petitioner would submit that the impugned final report is misconceived; that the offence of theft is not made out; that in a quash petition filed by the petitioner's employer, who was arrayed as A2, in Crl.O.P.(MD) No.14793 of 2022, this Court had observed that there was no theft of M-sand and that at best, the allegations disclose only a violation of the permit by the quarry owner, namely, the said Raju; and that the observations made in the said Crl.O.P. would enure to the benefit of this petitioner, who was employed under A2.

4. The learned Additional Public Prosecutor for the first respondent, per contra, would submit that the first respondent had recorded the statements of several witnesses and after thorough investigation, filed the final report, which discloses the offences alleged against the petitioner; and that the order of this Court passed in favour of A2 would not enure to the benefit of the petitioner, as the petitioner was caught red-handed by the defacto complainant while driving the lorry with M-sand.

5. The undisputed facts are that the petitioner is the driver of the lorry belonging to A2; that the petitioner transported M-sand in the said



Crl.O.P.(MD) No.1673 of 2024

lorry; that A2 had taken the lorry on lease from the quarry owner, namely, the said Raju; and that the said Raju had violated the permit for quarrying.

In such circumstances, this Court, in Crl.O.P.(MD) No.14793 of 2022, had held that there is no evidence of theft committed by any person. The relevant portion of the order dated 14.07.2023, passed by this Court in Crl.O.P.(MD) No.14793 of 2022, reads as under:

8.Perusal of the CD file, it does not indicate the collection of transport pass. But during the course of investigation, the lease agreement that was entered into between the owner namely Raju and Mariyappan, who is the petitioner here has been collected, wherein it has been stated that the above said Lorry No.TN-96-4542 belongs to Raju and it was leased out to this petitioner for 11 months that is from 16/02/2021 to 15/01/2022 on lease basis. The lease amount was also agreed as Rs. 2,00,000/-. So, it is seen that even though, quarry permit was granted in favour of Raju-A1, lorry was leased out to this petitioner for transporting M-sand, wherein, we find the vehicle number. So, permit is also available though in the name of Raju, who is the quarry owner. If there is any violation of the permit issued in the name of the above said Raju, the competent authority ought to have proceeded against the above said Raju only. There is no question of theft here. No material has been collected during the course of investigation that the M-sand was stolen from the quarry belonging to Raju and illegally transported.

9.Except the statement of A1, no other effort has been made by the respondents herein to collect the materials to indicate the above said commission of theft. Absolutely, this is not the case of theft and it is only violation of permit.



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Crl.O.P.(MD) No.1673 of 2024

10. When, we read the transport pass, it is stated the date of despatch as 23/08/2021 at 6.50 am. The destination is mentioned as Madakulam and the name of the vehicle driver is also mentioned as Thangapandi. So, I find that it is not transported without permit or transit pass.

11. As mentioned above, there is a violation of permit only, for which, the owner of the above said quarry ought to have been proceeded and not this petitioner. On that sole ground, the criminal proceedings against the petitioner is liable to be quashed.

6. The above observations would squarely apply to the petitioner as well. Since the offence is not made out against either of them, the petitioner also cannot be prosecuted for the said offence. Therefore, the impugned final report against the petitioner is liable to be quashed and is accordingly quashed.

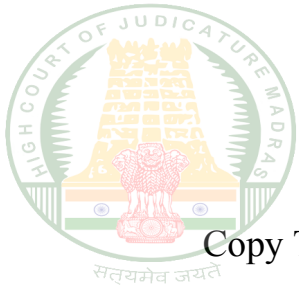
7. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

04.09.2025

JEN

Index: Yes/ No

Neutral Citation: Yes / No



Crl.O.P.(MD) No.1673 of 2024

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- 1.The Judicial Magistrate No.1,
Tirunelveli, Tirunelveli District.
- 2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.1673 of 2024

SUNDER MOHAN, J.

JEN

Crl.O.P.(MD) No.1673 of 2024

04.09.2025