



Crl.A.(MD)No.227 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD)No.227 of 2022

Nadupandi

... Petitioner/
Sole Accused

Vs.

The State rep. by
The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.
(Crime No.233 of 2013)

... Respondent/
Complainant

Prayer : This Criminal Appeal has been filed under Section 374(2) of Criminal Procedure Code, to call for the records and set aside the judgment and conviction dated 28.12.2021 by the learned Special Court dealing with the cases of offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, 1957, Madurai in Spl.Calendar Case No.194 of 2021 and acquit the appellant.

For Appellant : Mr.S.Mahendrapathy

For Respondent : Mrs.M.Aasha
Government Advocate (Crl. Side)



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JUDGMENT

This appeal has been filed by the appellant / sole accused, against the Judgment and conviction dated 28.12.2021 rendered by the Special Court dealing with the cases of offences in contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai in Special C.C.No.194 of 2021 convicting the appellant under Section 379 IPC and sentencing him to undergo 2 years Rigorous imprisonment and to pay a fine of Rs.5,000/- and in default to undergo 3 months Rigorous imprisonment.

2.The case of the prosecution is as follows:

On 27.11.2013 at about 12.30 hours, the Special Sub Inspector Palanisamy along with Head Constable Pauldurai and another Head Constable Jayamani were on their routine rounds at E.Pudupatti – Sadayandipatti road near Pothiraj Poultry Farm and found the appellant coming from south to north in a tractor bearing Registration No.TN-46-B-2073 attached with a trailer laden with sand. When questioned regarding any permit for excavating and transporting sand, it came to light that the appellant had illegally transported sand from Asuvamaanathy Odai without any permit. Thereafter the appellant was arrested and FIR was



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registered in Crime No.233 of 2013 for the offences punishable under Section 379 IPC r/w Section 21(1)(5) of Mines and Minerals (Development and Regulation) Act. Subsequently, the investigation was continued by PW3. After completion of investigation, PW3 filed the final report before the District Munsif cum Judicial Magistrate No.I, Usilampatti. The same was taken on file in C.C.No.25 of 2014. After appearance of the accused, copies were served under Section 207 Cr.P.C. Then, the learned District Munsif framed necessary charges and questioned the accused. The accused denied the charges and pleaded not guilty and stood trial. Subsequently, the case was transferred to the Principal District Court, Madurai and thereafter to the Special Court dealing with the Cases of Offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, Madurai and the same was taken on file in Spl.C.C.No.194 of 2021.

3. During trial, the prosecution to prove its case examined 5 witnesses as PW1 to PW5 and exhibited 4 documents Ex.P1 to P4 and 1 material object was marked as P.M.O.1.



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4. The learned trial Judge after recording the evidence questioned the accused under Section 313 Cr.P.C proceedings after disclosing the incriminating evidence against him and he denied the same as false and thereafter, the case was posted for defence evidence. The accused neither produced any documents nor examined any witnesses on his side.

5. The learned trial Judge, on considering the evidence of witnesses and documents, convicted and sentenced the appellant for the offence under Section 379 IPC. Aggrieved over the same, the appellant preferred this appeal.

6. The learned counsel appearing for the appellant would submit that there are material contradictions in the evidence of the prosecution witnesses and the exhibits. Therefore, he seeks to set aside the conviction and sentence passed by the Court below.

7. The learned Government Advocate (Criminal Side) on instructions and also on going through the records and impugned



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judgment would submit that PW1 and PW2 cogently deposed that the appellant was illegally transporting the river sand and also deposed about the material fact that the vehicle loaded with sand was seen at the scene of occurrence. The same was properly considered by the learned trial Judge and conviction was passed. Therefore, she seeks to confirm the conviction and sentence passed against the appellant.

8. This Court considered the rival submissions and perused the records. PW1 deposed that the appellant had illegally stolen the sand and transporting the same in the vehicle namely tractor attached with trailer bearing registration No.TN-46-B-2073. He and PW2 intercepted the vehicle and seized the sand and tractor as per law. PW2 also deposed in corroboration with the deposition of PW1. The appellant also gave the confession under Ex.P4 and seizure Mahazar (Athatchi) and form 91 also were marked under Ex.P1 to prove the production of seized sand and the vehicle. As per the Judgment of the Honourable Supreme Court in the following case there is no legal impediment to disbelieve the cogent and trustworthy of the evidences of the police officers. The Hon'ble Supreme Court in the case of *Mukesh Singh Vs. State (Narcotic Branch of Delhi)*



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reported in (2020) 10 SCC 120, reiterated the principles that the non-examination of the independent witnesses could not be a ground to disbelieve the evidence of the police officers when the same was cogent and trustworthy. The relevant portion of the judgment is extracted hereunder:

“11. .. As held by this Court in a catena of decisions, the testimony of police personnel will be treated in the same manner as testimony of any other witness and there is no principle of law that without corroboration by independent witnesses his testimony cannot be relied upon. [See Karamjit Singh v. State (NCT of Delhi) [Karamjit Singh v. State (NCT of Delhi), (2003) 5 SCC 291 : 2003 SCC (Cri) 1001] .] As observed and held by this Court in Devender Pal Singh v. State (NCT of Delhi) [Devender Pal Singh v. State (NCT of Delhi), (2002) 5 SCC 234 : 2002 SCC (Cri) 978] , the presumption that a person acts honestly applies as much in favour of a police officer as of other persons, and it is not judicial approach to distrust and suspect him without good grounds therefor.

11.1. At this stage, reference may be made to Illustration (e) to Section 114 of the Evidence Act. As per the said provision, in law if an official act has been proved to have been done, it shall be presumed to be regularly done. Credit has to be given to public officers in the absence of any proof to the contrary of their not acting with honesty or within limits of their authority. Therefore, merely because the complainant conducted the



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investigation that would not be sufficient to cast doubt on the entire prosecution version and to hold that the same makes the prosecution version vulnerable. The matter has to be left to be decided on a case-to-case basis without any universal generalisation.

9. Both PW1 and PW2 were subjected to incisive cross examination and nothing was elicited to disbelieve their evidence. This Court finds no infirmity and inherent improbability in the evidence of PW1 and PW2 about the recovery of the sand and illegal transport. The learned counsel appearing for the appellant argued about some inconsistency relating to the recovery of the illegal sand and the same are not material discrepancies which would go to the root of the prosecution case. Apart from that PW1 and PW2 officers have no motive to implicate the appellant in the above case. When the vehicle was seized with the sand and the evidence of PW1 and PW2 are cogent about the presence of the appellant, this Court finds no material to disbelieve their version. Therefore, this Court believes their evidence and holds that the prosecution proved the case beyond reasonable doubt and concurs with the finding of the learned trial Judge in holding that appellant had illegally stolen the river sand and transported the same and thereby committed offence under Section 379 IPC.



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10. The occurrence took place in the year 2013 and the appellant was aged about 47 years at the time of occurrence. The appellant was already arrested and released on bail. There is no similar case pending against the appellant and also he is not involved in any other case. In the said circumstances, this Court is inclined to modify the sentence.

11. Accordingly, this Criminal Appeal is partly allowed. The conviction rendered by the trial Court is hereby confirmed. The sentence is reduced to the period of imprisonment already undergone by him. The fine imposed by the trial Court is hereby confirmed.

19.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
csm/sbn



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WEB COPY **To:**

- 1.The Judge,
Special Court to deal with the cases of Offences in
Contravention of the Provisions of Mines and Minerals
(D & R) Act, Madurai.
- 2.The Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN,J.

csm/sbn

Judgment made in
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