



Crl.O.P.(MD) No.4171 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2025

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.4171 of 2024

and

Crl.M.P.(MD) No.3293 & 3294 of 2024

1.Ramkumar

2.Vinsent

... Petitioners

Vs.

The State of Tamil Nadu rep. by its
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(Crime No.403 of 2021)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for records pertaining to the impugned final report in C.C.No.755 of 2022, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District and quash the same.

For Petitioners : Mr.R.Sreenivasan

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

WEB COPY This Criminal Original Petition has been filed seeking to quash the final report in C.C.No.755 of 2022, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, filed against the petitioners for the offence punishable under Section 379 of the Indian Penal Code, 1860.

2. The gist of the allegations in the final report is that, on 05.06.2021 at about 5.30 a.m., the petitioners were found transporting $\frac{1}{4}$ unit of river sand without a valid permit in a Tata 407 Tipper vehicle bearing Registration No.TN-74-AJ-8236, and thus committed the aforesaid offences.

3. The learned counsel for the petitioners would submit that surplus sand was found in the petitioners' patta land; that they had transported the excess sand to the agricultural land in the same village for agricultural purposes; that the petitioners are therefore entitled to the benefit under Rule 17 of the Tamil Nadu Minor Mineral Concession Rules; that when the petitioners had approached this Court for quashing of the FIR, this



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Court had specifically directed the respondent not to file the final report without subjecting the soil to testing; and that since the soil test has not been conducted, the impugned prosecution is liable to be quashed.

4. The learned Government Advocate (Criminal Side) for the respondent, on instructions, would fairly submit that no soil test was conducted before filing the final report.

5. When the petitioners approached this Court in Crl.O.P.(MD) No. 19146 of 2021 seeking quashing of the FIR, this Court passed the following directions:

“2. Though the contention of the petitioners counsel are quite persuasive, it is more a contentious fact. This issue can be resolved if a simple soil test is undertaken. According to the petitioners, the gathered soil got deposited on account of soil erosion from the immediately upper regions. Since soil testing will reveal the origin of the sand, the respondents are directed to verify the aforesaid claim of the petitioners and only thereafter, the officials shall submit the final report. With this direction to the respondents, Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.”



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6. Admittedly, the respondent has violated the aforesaid directions issued by this Court to subject the soil to testing before filing the final report. This Court had made the above observations in view of the rival contentions as to whether the sand found in the petitioners' vehicle was from the petitioners' patta land. In the absence of the soil test as directed by this Court, this Court is of the view that the impugned prosecution cannot be sustained and is therefore liable to be quashed. It is also seen that the petitioners have no bad antecedents. Therefore, the impugned prosecution is quashed.

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

06.11.2025

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order



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Copy To:

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- 1.The Judicial Magistrate No.I,
Kuzhithurai, Kanyakumari District.
- 2.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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