



Crl.OP(MD)No.8634 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.8634 of 2024

Palani

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by The Inspector of Police,
R.S.Mangalam Police Station,
Ramanathapuram District.
(Cr.No.72 of 2024)

2.Pandiyaraju

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the case in Cr.No.72 of 2024 dated 04.04.2024 on the file of the respondent police station and quash the same and all further proceedings.

For Petitioner : Mr.B.Mahendrarajan

For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)

For R-2 : No appearance



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ORDER

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the FIR in Crime No.72 of 2024, dated 04.04.2024, on the file of the respondent police, registered for offences under Section 379 IPC and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957, and to quash the same as illegal insofar as the petitioner is concerned.

Preface:

2. The inherent power of this Court under Section 482 Cr.P.C., 1973, is meant to prevent abuse of process and to secure the ends of justice. Though the Court ordinarily does not interfere at the stage of investigation, where the First Information Report, even if taken at face value, does not disclose the essential ingredients of the alleged offences, or where the very initiation of proceedings is vitiated by a legal bar, this Court would be justified in stepping in at the threshold, in terms of the principles laid down in ***R.P. Kapur v. State of Punjab***¹ and ***State of Haryana v. Bhajan Lal***².

¹ (1960) SC 866

² 1992 SCC (Cri) 426



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3. The present petition invites the Court to examine whether the impugned FIR, registered for theft of sand and for alleged violation under the MMDR Act, contains the foundational particulars necessary to sustain such prosecution, and whether the registration and continuation of proceedings would amount to an abuse of process.

Case of the Prosecution:

4. The case of the prosecution, as reflected in the FIR, is that on 04.04.2024, upon secret information from an unknown person, the Village Administrative Officer (VAO) of Rathanur Group conducted a surprise visit near Rathanur Bus Stop. It is alleged that the accused were involved in illegal handling/transportation of sand using a tractor. The petitioner is stated to have escaped from the scene. Based on the complaint lodged by the VAO, the respondent police registered the case in Crime No.72 of 2024 for offences under Section 379 IPC and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as, “MMDR Act”).



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Grounds for quash:

5. The petitioner seeks quashment of the FIR, *inter alia*, on the following grounds:

The allegations in the FIR are vague and do not disclose the essential ingredients of theft; there is no mention as to from where the sand was removed, whose possession it was taken from, and what quantity/value of sand was involved. No seizure was effected from the petitioner; the FIR proceeds on a mere allegation that the petitioner escaped from the spot. The petitioner has no antecedents and is falsely implicated as a matter of routine, as alleged. Registration of the offence under Section 21(4) of the MMDR Act and continuation thereof suffers from a legal infirmity, as the statutory scheme requires compliance with the manner contemplated under the Act for prosecution/cognizance. The case falls within the categories warranting interference at the threshold as stated in R.P. Kapur and Bhajan Lal.

Submissions:

6. The learned counsel for the petitioner submitted that the FIR is bereft of necessary particulars. It was argued that an offence



of theft requires a clear assertion that the property was dishonestly removed from the possession of another person, and the FIR must at least disclose the source and the possession/ownership from which the sand was allegedly removed. It was further submitted that the FIR does not mention any seizure from the petitioner, does not disclose how the petitioner was identified as the offender, and merely proceeds on an assertion that the petitioner escaped from the scene.

7. The learned counsel for the petitioner placed reliance on the principles governing quashment as enunciated in **R.P. Kapur v. State of Punjab**³ and **State of Haryana v. Bhajan Lal**⁴, and submitted that permitting the investigation to continue on such an FIR would amount to abuse of process. The learned counsel for the petitioner also submitted that invocation of the MMDR Act in the present manner is legally unsustainable and, in any event, prosecution under the special statute cannot be pursued in derogation of the procedure mandated therein.

³ (1960) SC 866

⁴ 1992 SCC (Cri) 426



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8. The learned Government Advocate (Criminal Side) opposed the petition. He submitted that the FIR was registered on the complaint of a public official, namely the VAO, based on secret information and a surprise inspection. It was argued that illegal sand handling is a menace and that the petitioner escaped from the scene, which itself is a circumstance warranting investigation. It was submitted that the investigation is at a nascent stage and this Court should not stifle the same by exercising jurisdiction under Section 482 Cr.P.C., 1973. According to the prosecution, the truth or otherwise of the allegations can be unearthed only after collecting materials during the investigation.

9. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for Consideration:

10. The point that arises for consideration is whether the FIR in Crime No.72 of 2024, dated 04.04.2024, registered for offences under Section 379 IPC and Section 21(4) of the MMDR Act, discloses the basic ingredients of the alleged offences and is legally sustainable



so as to warrant continuation of investigation, or whether it is liable to be quashed at the threshold?

Analysis:

11. The offence of theft postulates dishonest removal of movable property out of the possession of another person without that person's consent. Even at the stage of FIR, while meticulous evidence is not expected, the foundational allegations must indicate (a) what property was taken, (b) that it was taken from the possession of another, and (c) the circumstances indicating dishonest removal.

12. In the present case, the FIR proceeds on the allegation that the accused were found "illegally handling sand using a tractor" near a bus stop. The FIR is conspicuously silent about from where the sand was removed whether it was taken from a river bed, watercourse, public land, patta land, stockyard, or from the possession of any identified person or authority. The FIR also does not disclose the approximate value of sand allegedly handled, nor does it specify any foundational fact showing that the sand was in



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the possession of any person from whom it was dishonestly removed.

In such circumstances, the allegation of “illegal handling” near a bus stop, without the crucial link of removal from possession, does not, on its face, satisfy the ingredients of theft.

13. The proposition applied by this Court in comparable situations is that the offence of theft cannot be sustained merely on an assertion of unauthorised transport/handling unless the FIR discloses wherefrom the property was taken and the factual basis to infer dishonest removal from the possession of another. The ratio in the decision relied upon by the petitioner underscores that the police cannot mechanically invoke “theft” to clothe a dispute or a regulatory breach with penal colour. Therefore, even accepting the FIR allegations as they stand, the essential ingredients of Section 379 IPC are not made out against the petitioner.

14. The MMDR Act is a special statute governing mining and minerals. The statute prescribes a specific framework with respect to violations, seizure, and prosecution. The question whether and to what extent police machinery can be set in motion for offences under



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the MMDR Act, and the manner in which cognizance can be taken, is regulated by the statutory scheme.

15. In the present case, the FIR is registered for Section 21(4) of the MMDR Act based on a complaint of the VAO alleging “illegal handling of sand”. The FIR does not disclose any foundational statutory particulars such as the place of alleged mining/removal, identification of the mineral source, particulars of seizure, or compliance with the statutory mechanism contemplated under the Act for launching prosecution. When the very invocation of the special statute is shown to be unsupported by the minimum statutory foundation on the face of the FIR and is coupled with the absence of theft ingredients, continuation of proceedings would only result in harassment without advancing the cause of justice.

16. This Court is mindful that quashment at the FIR stage is an exception. However, where the FIR, even if accepted in entirety, does not disclose the essential ingredients of the offences alleged, and where the criminal process appears to be employed in a sweeping and mechanical manner, the Court would be justified in



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exercising its inherent powers. On the facts of this case, the FIR reads more as a broad allegation of unauthorised handling/transport of sand rather than a factual narrative of theft or a legally grounded prosecution under the MMDR Act. The continuation of such proceedings, in the absence of foundational particulars, would amount to abuse of process.

17. For the reasons stated above, this Court is of the view that the FIR in Crime No.72 of 2024 does not disclose the necessary foundational particulars to sustain the offences alleged against the petitioner and is liable to be quashed.

18. This Court clarifies that this order is confined to the petitioner on the basis of the infirmities apparent on the face of the FIR and shall not be construed as expressing any opinion on the merits of any independent proceedings that may be initiated in accordance with law, strictly following the statutory framework.

19. In the result, the Criminal Original Petition is allowed. The FIR in Crime No.72 of 2024, dated 04.04.2024, on the file of the



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respondent police, registered for offences under Section 379 IPC and Section 21(4) of the MMDR Act, is quashed insofar as the petitioner is concerned.

15.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The Inspector of Police,
R.S.Mangalam Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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