



Crl.O.P.(MD)No.16370 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.16370 of 2025

and

Crl.M.P.(MD).Nos.13354 and 13359 of 2025

Maheswaran

... Petitioner/Accused No.2

Vs.

The State of Tamil Nadu, Rep. by,
The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the entire records relating to the case in C.C.No.101 of 2025 on the file of the Learned Judicial Magistrate No.II, Virudhunagar and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.R.Niresh Kumar

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



This Criminal Original Petition is filed to quash the impugned final report in C.C.No.101 of 2025 filed for the offence under Section 379 of IPC.

3. The learned counsel for the petitioner would submit that the first accused is no more; that though the alleged occurrence took place on 22.11.2019 and final report was filed immediately, the prosecution is yet to examine the witnesses; that admittedly, the petitioner was not present at the scene of occurrence when the Sub Inspector of Police inspected the bullock cart; that only on the confession of the first accused, the petitioner is sought to be prosecuted for the offence under Section 379 IPC; that there is no other evidence to connect the petitioner with the alleged crime; and that the value of the sand is Rs.319/-. He would further submit that the harm caused by the



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petitioner is so slight; and hence, the petitioner would be entitled to benefit under Section 95 of IPC.

4. The learned Additional Public Prosecutor per contra submitted that the value of the sand said to be stolen is Rs.319/-; that the first accused is no more; and that though the respondent came to know about the petitioner only on the confession of the first accused, the petitioner came to the spot subsequently.

5. This Court had perused the impugned final report and the materials filed by the prosecution in support of the case. Admittedly, the petitioner was not present in the scene of occurrence when the Sub Inspector of Police intercepted the bullock cart. The petitioner is sought to be implicated only on the confession of the first accused. It is also stated that the first accused is no more. Therefore, the prosecution seeks to proceed against the petitioner only on the confession of the co-accused. It is needless to say that the confession of the co-accused alone cannot be the basis to hold the petitioner guilty of the offence. Since the chance of conviction of the petitioner is bleak, the continuation of prosecution would be a futile exercise.



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6. That apart, the value of the sand said to have been stolen by the first accused is Rs.319/-. The harm caused by the petitioner, even assuming that the prosecution case is true, is slight. Therefore, his act would squarely fall within Section 95 IPC. Hence, this Court is inclined to quash the impugned final report. Accordingly, the impugned final report in C.C.No.101 of 2025 on the file of the learned Judicial Magistrate No.II, Virudhunagar is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

25.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

1.The Judicial Magistrate Court No.II,
Virudhunagar.

2.The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.

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

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SUNDER MOHAN, J.

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