



Crl.O.P.(MD)No.18153 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.18153 of 2025

and

Crl.M.P(MD)No.14921 and 14922 of 2025

1.Ganesan

2.Perumal

... Petitioner/Accused No.2 & 3

Vs.

1.The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Manoor Police Station,
Tirunelveli District

... Respondent/Complainant

2.Manthira Moorthi,
Special Sub – Inspector of Police
Manoor Police Station
Tirunelveli District

... Respondent/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS 2023, to call for the entire records pertaining to the case P.R.C.No.416 of 2025 on the file of the Judicial Magistrate V, Tirunelveli, and quash the same as against the petitioner.

For Petitioner : Mr.A.Velmurugan

For R-1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)



Crl.O.P.(MD)No.18153 of 2025

ORDER

WEB COPY This Criminal Original Petition has been filed to quash the final report in P.R.C.No.416 of 2025 on the file of the Judicial Magistrate V, Tirunelveli, which was filed for the offences punishable under Sections 303(2) of BNS and Section 21(4) of Mines and Minerals (Development and Regulations) Act, 1957.

2. The allegation in the impugned final report is that the petitioners were found transporting three units of gravel sand in the tipper lorry bearing registration No.TN 72 AK 8417, without proper permit and thus, committed the aforesaid offences.

3. The learned counsel for the petitioners would submit that the petitioners had a valid permit; that the allegation, at best, discloses that the conditions of the permit was violated ; that the respondents have no jurisdiction to file the final report for the offence under Section 21(4) of Mines and Minerals (Development and Regulations) Act; that the violations of permit would not constitute the offence under Section 303(2) of BNS; and that the impugned prosecution may be quashed.



Crl.O.P.(MD)No.18153 of 2025

4. The learned Additional Public Prosecutor would submit that though the petitioners have a valid permit, the petitioners were permitted to quarry the sand only between 9.30 AM to 1.30 PM; that since they had carried the sand beyond the permitted hours, the offences alleged are made out; and that in any case, the points raised by the petitioners cannot be adjudicated in the quash petition.

5. In response to the learned Additional Public Prosecutor, the learned counsel for the petitioners would submit that the seizure was made at 12.56 PM only and the FIR was not made subsequently.

6. The question, as to when the seizure was made, cannot be adjudicated in this quash petition and therefore, this Court would not go into that question. However, it has to be seen whether on the admitted facts, the offences are made out. The respondents have no jurisdiction to file a final report for the offence under Section 21(4) of Mines and Minerals (Development and Regulations) Act and the Court can take cognizance only on the complaint of the authorized officer.



Crl.O.P.(MD)No.18153 of 2025

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7. As regards the offence under Section 303(2) of BNS, it is seen that the petitioners have a valid permit. The allegation is that they have violated the conditions of permit. This Court is the view that the respondents can only prosecute the petitioners for violation of the permit and cannot prosecute them for the offence of theft. Be that as it may, the respondents have not stated in the FIR as well as in the impugned final report about the value of three units of gravel sand said to have been transported by the petitioners. If the value of the property is less than Rs.5,000/-, as per BNSS, the offence under section 303(2) of BNS is non cognizable. Hence, it is mandatory for the respondents to mention the value of the property both in the FIR and in the impugned final report and in the absence of which, the respondents would have no jurisdiction to investigate the offence under section 303(2) of BNS. Hence, for all the reasons, the impugned prosecution in P.R.C.No.416 of 2025 on the file of the Judicial Magistrate V, Tirunelveli, is liable to be quashed and is accordingly quashed with liberty to the respondents to prosecute the petitioners, if there is a violation of permit.



Crl.O.P.(MD)No.18153 of 2025

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8. With the above observations and liberty, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

27.10.2025

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

Indu

To

- 1.The Inspector of Police,
Manoor Police Station,
Tirunelveli District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.18153 of 2025

SUNDER MOHAN, J.

Indu

Crl.O.P(MD).No.18153 of 2025

27.10.2025