



CRL OP(MD). No.20473 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 18.11.2025

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.20473 of 2025

and

CrI.M.P.(MD)Nos.17340 & 17341 of 2025

1. Kanagaraj,
2. Johnson,

... Petitioners

Vs.

1. The State of Tamilnadu, Rep.,
By, Rajakkamangalam Police Station,
Kanyakumari District
(in Cr.No.126/2025).

2. Ravichandran,

... Respondents

PRAYER :-This Petition is filed under Section 528 BNSS, to call for the records pertaining to the charge sheet in C.C.No.686/2025 on the file of the Learned Judicial Magistrate No.I, Nagercoil in connection with Crime No.126/2025 dated 09.04.2025 on the file of the 1st respondent Police and quash the same.

For Petitioners : Mr.K.Suyambulingabharathi,

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (CrI.Side) for R1



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ORDER

This petition has been filed to quash the charge sheet in C.C.No. 686 of 2025 on the file of the Judicial Magistrate No.1, Nagercoil, filed for the offence punishable under Section 303(2) of BNS, 2023.

2. The gist of the allegation in the impugned final report is that the petitioners / A1 & A3 along with A2 have illegally transported gravel sand worth about Rs.6,000/- without valid permission and thus committed the aforesaid offence.

3. The learned counsel for the petitioners would submit that admittedly, the petitioners had transported the gravel sand from the agricultural land belonging to the second petitioner for the purpose of agricultural activities in another land belonging to him; that the respondents have not stated that the petitioners had removed gravel sand is not made out; and that the petitioners have no bad antecedents.



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4. The learned Government Advocate (Crl.Side) would submit that the petitioners had transported gravel sand worth about Rs.6,000/- in the vehicle bearing registration No.TN 74 AE 0268; that the petitioners ought to have obtained permission for extraction of earth; and that in absence of any permission, the impugned prosecution is liable to be sustained.

5. It is not the case of the respondents that the petitioners had removed the sand for commercial purposes. Their case is that the petitioners removed the sand which was in his possession to transport it to another agricultural land belonging to him. It is well settled that unless the prosecution is able to establish that the sand was removed from the possession of another person or from a land which is in possession of the State without consent, the offence of theft would not be made out. Therefore, this Court is of the view that the petitioners cannot be prosecuted for the offence under Section 303(2) of BNS. However, the petitioners may be guilty of violation of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (in short, 'the MMDR Act']. It is needless to say that if there is any such violation, the



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authorities concerned can always file a complaint in terms of Section 22 of the MMDR Act. Therefore, this Court is of the view that the impugned final report is liable to be quashed for the aforesaid reasons.

6. Accordingly, the charge sheet in C.C.No.686 of 2025 on the file of the Judicial Magistrate No.1, Nagercoil, filed against the petitioners herein for the offence punishable under Section 303(2) of BNS,2023 is quashed and the Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

18.11.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

LS

To

1.The Judicial Magistrate No.1,
Nagercoil.

2.The Inspector of Police,
Rajakkamangalam 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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