



CRL OP(MD). No.20483 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.11.2025

PRONOUNCED ON : 25.11.2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD) No.20483 of 2025

and

CrI.M.P.(MD) Nos.17362 & 17363 of 2025

Dhas

... Petitioner / A3

Vs.

1.The State of Tamil Nadu rep. by
The Inspector of Police,
Kotticode Police Station,
Kanyakumari District.
Crime No.24 of 2025

... 1st respondent/Complainant

2. Mr.Jeyakumar,
Special Sub-Inspector of Police 1302,
Kotticode Police Station,
Kanyakumari District.

... 2nd respondent
/Defacto Complainant

PRAYER: This Petition filed under Section 528 BNSS, to call for the records in connection with C.C.No.248 of 2025 on the file of the learned Judicial Magistrate-I, Padmanabhapuram and quash the same as against the petitioner.



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For Petitioner : Mr.R.Russel Raj

For Respondents : Mr.Meenakshi Sundaram
Additional Public Prosecutor (for R1)

ORDER

The petition seeks to quash the impugned final report in C.C.No. 248 of 2025 pending on the file of the learned Judicial Magistrate-I, Padmanabhapuram, Kanyakumari District, for the offences under Section 303(2) of the BNS, 2023 corresponding to Section 379 of the IPC.

2. The gist of the allegations is that the petitioner is the owner of the quarry and on his instigation, the A1/driver of the lorry and A2/owner of the tipper lorry had transported excess M-Sand beyond the prescribed limit and without transport permit and thus, committed the aforesaid offence.

3. The learned counsel for the petitioner would submit that admittedly the petitioner had a Certificate of Registration under the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of



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Mineral and Mineral Dealers Rules, 2011; that the allegations at best would be a violation under the MMDR Act; and that though the respondents have registered an FIR for the said violations, the police had filed a final report for the offence of theft, which is not made out and even assuming that there is an offence under the MMDR Act, the respondents would have only jurisdiction to file a private complaint and sought for quashing for the impugned final report.

4. The learned Additional Public Prosecutor *per contra* submitted that the allegations is that the first two accused who were the driver and owner of the tipper lorry had transported excess load of 36130 Kgs of M-Sand in a tipper lorry without any transport permit and therefore, they are liable for the offences under Section 303(2) of the BNS.

5. Admittedly, the M-Sand was removed from the petitioner's premises who is running a concern by name Sathya Blue Metals. He has a valid registration certificate for storing, processing, consuming of rough stone, jelly, crushed M-Sand and B-Sand in the patta lands belonging to him. It is not the respondent's case that the M-Sand was



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removed without his consent. In any case the petitioner himself is cited as an accused of the offence of theft of minerals which was in his possession.

6. This Court in ***Devanandh vs. State of Tamil Nadu***, decided on 25.11.2025 [today], in Crl.OP.(MD) No.19885 of 2025 held that the theft would not be made out unless the minerals are taken from the possession of another without the consent of that person concerned or from a property of the State without the State's consent. In this case there is no such allegation and hence, the final report filed for the offence under Section 303(2) of the BNS cannot be sustained and is accordingly, quashed.

7. However, it is made clear that if the petitioner or the other accused have violated the conditions of licence by removing excess M-Sand or by transporting M-Sand, then the authorised officer would be at liberty to initiate independent proceedings under Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 and the observations made by this Court in respect of the commission of the



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offence under Section 303(2) of the BNS would have no bearing in the said complaint.

8. With the above observations, the Criminal Original Petition stands allowed. The final report in C.C.No.248 of 2025 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, Kanyakumari, is quashed. Consequently, the connected Miscellaneous Petitions are closed.

25.11.2025

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

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- 1.The Judicial Magistrate-I,
Padmanabhapuram,
Kanyakumari District.
- 2.The Inspector of Police,
Kotticode 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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Pre-delivery order in
CRL OP(MD) No.20483 of 2025

25.11.2025