



Crl.O.P.(MD)No.20883 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.20883 of 2025

and

Crl.M.P.(MD).No.17749 of 2025

1.S.Kumar

2.M.Piratla

... Petitioners/Accused No.2 & 4

Vs.

1.State of Tamil Nadu Rep. by,
The Inspector of Police,
Kaliyakkavilai Police Station,
Kanniyakumari District.
(In Crime No.172 of 2023)

... 1st Respondent/Complainant

2.C.Rajasekar,
Taluk Supply Officer,
Vilavancode,
Kanniyakumari District.

... 2nd Respondent/ Defacto Complainant

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records of the impugned charge sheet in C.C.No.870 of 2025 on the file of the Learned Judicial Magistrate Court No.1, Kuzhithurai and quash the same in respect of the petitioners concerned.



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For Petitioners : Mr.S.Krishnakumar
For R-1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For R-2 : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This Criminal Original Petition is filed to quash the impugned final report in C.C.No.870 of 2025 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, which was filed for the offences under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 [in short, 'the MMDR Act'].

2. The gist of allegations in the final report is that, on 19.07.2023 at about 5.00 a.m., during routine vehicle check, five vehicles were found transporting rough stones and in the transport permit, no specific permission was granted for transporting rough stones; and that the petitioners are the owner of three of the five vehicles bearing Registration Nos.TN 76 AU 2658, TN 76 AU 7150 and TN 76 AU 2449 respectively.



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3. The learned counsel for the petitioners would submit that even according to the FIR, the drivers were in possession of transport permits; that the only allegation is that the nature of the minerals for which permission was granted was not specifically mentioned in the relevant column; and that since the permits were issued by the Government authorities, the petitioners cannot be said to be guilty of the offence of theft or the offence under Section 21(1) of the MMDR Act, only because the nature of the mineral is not mentioned.

4. Mr.N.Ramesh Arumugam, the learned Government Advocate, takes notice for the second respondent and would submit that there was no valid permit to transport the minerals.

5. The learned Additional Public Prosecutor for the first respondent would reiterate the allegations in the final report and sought for dismissal of the petition.

6. It is seen from the FIR that all the vehicles had transport permits. In fact the second respondent/defacto complainant had annexed the same along with the complaint given to the first respondent. It is not



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in dispute that the petitioners transported rough stones in their vehicles bearing Registration Nos.TN 76 AU 2658, TN 76 AU 7150 and TN 76 AU 2449 respectively.

7. In the transport permit of another vehicle bearing Registration No.TN 65 AV 6638, which has been filed in the typed set of papers, Column No.6 refers to the type of stone permitted to be transported. There are three types of stones mentioned in the column, including rough stone. However, it is the case of the second respondent that it is not specifically mentioned in the said permit as to which type of stone out of the three types of stones was permitted to be transported. It is not specifically stated by the authorities concerned that only rough stone was permitted to be transported. That cannot be the basis to prosecute the petitioner for the offence under Section 379 of IPC as the ingredients of theft are not made out. It is well settled that the offence of theft would only be made out if the property has been removed dishonestly from the possession of another without his consent. There is no such allegation. The first respondent has no jurisdiction to file a final report for the offence under Section 21(1) of MMDR Act. Hence, the impugned final report is liable to be quashed and is accordingly quashed.



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8. With the above observations, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

25.11.2025

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

To

- 1.The Judicial Magistrate Court No.1,
Kuzhithurai.
- 2.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanniyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

Lm/ars

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