



Crl.O.P.(MD)No.20963 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.20963 of 2025

and

Crl.M.P.(MD)Nos.17868 and 17869 of 2025

Shaju

... Petitioner/Accused No.1

Vs.

1.The State of Tamil Nadu Rep. by its,
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(Crime No.190/2023)

... 1st Respondent/Complainant

2.The Village Administrative Officer,
Nalloor Village,
Nalloor,
Vilavancode Taluk,
Kanyakumari District.

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned Charge Sheet in C.C.No.300 of 2024 on the file of learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District and quash the same.



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For Petitioner : Mr.S.Ramakrishnan
For R-1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the impugned final report in C.C.No.300 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, which was filed for the offences under Section 379 of IPC read with Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as 'MMDR' Act).

2. The gist of the allegations in the final report is that the petitioner, who is the first accused, in order to construct a septic tank, had removed the stones from his own land with the help of the second accused, who owned a tractor and thus committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that even according to the prosecution, the petitioner had removed the stones only to construct a septic tank; that there is no allegation that he intended to sell the



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stones; that in any case, the offence of theft would not be made out as the stones were admittedly in the petitioner's possession; that the first respondent has no jurisdiction to file the final report for the offence under Section 21(1) of MMDR Act; and that the learned Magistrate had taken cognizance of only the offence under Section 379 of IPC.

4. Heard the learned Additional Public Prosecutor, who would confirm that the stones were removed from the petitioner's land.

5. Admittedly, the stones were removed from the petitioner's land and therefore, the offence of theft under Section 379 of IPC would not be made out. This Court in similar circumstances in the case of ***Devanandh Vs. State*** in ***Crl.O.P.(MD).No.19885 of 2025 dated 25.11.2025*** had held that unless the respondents are able to show that the mineral was stolen from the property belonging to the State or from the possession of a third person, the offence of theft would not be made out. If it is the case of the respondents that the petitioner had violated any rules framed under the MMDR Act, it is open to them to file a complaint under Section 22 of MMDR Act.



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6. In view of the above observations, the impugned final report in C.C.No.300 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

25.11.2025

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

To

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



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SUNDER MOHAN, J.

Lm

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