



Crl.O.P.(MD)No.21141 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.21141 of 2025

and

Crl.M.P.(MD).No.18087 of 2025

Chinnathambi

... Petitioner/Sole Accused

Vs.

1.The State of Tamil Nadu rep. by,
The Inspector of Police,
Sakkottai Police Station,
Sivagangai District.
(Crime No.219/2024)

... 1st Respondent/Complainant

2.Balusamy

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in respect of Crime No.219 of 2024 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.D.Venkatesh

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



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ORDER

WEB COPY This Criminal Original Petition is filed to quash the impugned FIR in Crime No.219 of 2024 on the file of the first respondent, which was registered for the offences under Section 303(2) of BNS and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957.

2. The gist of the allegations in the FIR is that the petitioner was found transporting six units of crusher sand (M-sand) without a valid transport permit.

3. The learned counsel for the petitioner would submit that the impugned FIR without mentioning the value of the stolen property cannot be sustained; that the offence under Section 303(2) of BNS is non-cognizable if the value of the stolen property is less than Rs.5000/-; and that the offence under Section 303(2) of BNS would also not be made out since there is no allegation that the crusher sand, which was alleged to have been transported, was taken from possession of some third person; and that the petitioner himself has a valid transport permit to transport crusher sand.



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4. The learned Government Advocate (Crl. Side) however would submit that the petitioner had transported six units of crusher sand without valid transit permit pass and thus committed the aforesaid offences; that in fact, the final report has also been filed for the offence under Section 303(2) of BNS and Section 21(4) of Mines and Minerals (Development and Regulation) Act (hereinafter referred to as 'MMDR Act'), which is yet to be taken on file by the learned Judicial Magistrate, Karaikudi.

5. The first respondent has no jurisdiction to file a final report for the offence under Section 21(4) of the MMDR Act, as under Section 22 of the MMDR Act, no Court can take cognizance of the said offence except on a complaint of an Authorised Officer. Therefore, the final report filed for the offence under Section 21(4) of MMDR Act is misconceived.

6. As regards the offence under Section 303(2) of BNS, it is seen that there is no allegation that the crusher sand was removed from another person's possession to attract the offence of theft. All that the respondents allege is that there is a violation of the transport permit. This Court in similar circumstances had held that unless the respondents are able to show that the mineral was removed from the property belonging to the State or from the possession of a



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third person, the offence of theft would not be made out for mere violation of the conditions of the transport permit. If the first respondent is of the view that the conditions of the transport permit have been violated or the mineral was transported without a valid transport permit, it is open to them to take steps for filing of a complaint under Section 22 of the MMDR Act.

7. In view of the above observations, the impugned FIR in Crime No.219 of 2024 and the consequential final report are quashed. Accordingly, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

24.11.2025

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

To

1.The Inspector of Police,
Sakkottai Police Station,
Sivagangai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



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Copy to:

The Judicial Magistrate Court,
Karaikudi.



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SUNDER MOHAN, J.

Lm

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24.11.2025