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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-02-2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

**CRL OP No. 3156 of 2026
and Crl.M.P.Nos.2191 & 2193 of 2026**

R.Anand

..Petitioner(s)

Vs

1. The State Rep. by the Inspector of Police,
Kothagiri Police Station,
The Nilgiris.
(Crime No.88/2025)

2. Sabirkhan

..Respondent(s)

Criminal Original Petition is filed under Section 528 of B.N.S.S., to call for the entire records pertaining to the proceedings in C.C.No.101 of 2025 on the file of the Judicial Magistrate, Kothagiri and quash the same.

For Petitioner(s):

Mr.B.Kumarasamy

For Respondent(s):

Mr.S.Santhosh,
Government Advocate (Crl.Side) for R1

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.101 of 2025 on the file of the Judicial Magistrate Court, Kothagiri.



2. The case of the prosecution is that based on a complaint preferred by the second respondent, who is a Village Administrative Officer, the first respondent police registered a case in Crime No.88 of 2025 against the petitioner and two others for the alleged offence punishable under Section 303(2) of BNS and Section 21(1) of the Mines and Minerals (Development and Regulation) Act. It is alleged that on 06.11.2025 at about 4.20 p.m., while the second respondent was on official duty, he received information that the petitioner and other accused were illegally quarrying soil from the land comprised in New S.F.No.1112/7A1, which belongs to one Prema. It is further alleged that the accused were using a Kubota machine and a tractor bearing registration No.TN 43 J 8407 for the said illegal activity. Hence, the case.

3. The learned counsel for the petitioner submitted that initially the case was registered for the offences under Section 303(2) of BNS and Section 21(1) of the Mines and Minerals (Development and Regulation) Act and after completion of investigation, the first respondent filed the final report only for the offence under Section 303(2) of BNS. He further submitted that the petitioner had transported the soil with due and valid permission and that a false case has been foisted against him as though he had illegally transported the soil. He further contended that the petitioner was subjected to harassment by the first respondent police and the Revenue Officials and that he had earlier filed writ



petitions before this Court in W.P.Nos.6573 & 25913 of 2022, 17469 of 2024 and 13430 of 2025 and obtained appropriate orders. Due to the same, the present complaint has been lodged falsely by the de facto complainant as if the petitioner had committed theft of soil from the land belonging to the said Prema in New S.F.No.1112/7A1, situated at Kothagiri Village. He also submitted that the said Prema has not been cited as a witness in the final report and that all the witnesses cited are official witnesses. Further, even as per the prosecution, the value of the sand allegedly involved is Rs.750/-. Since the value of the alleged stolen property is less than Rs.5,000/-, the offence would fall within the ambit of a non cognizable offence. He further submitted that as per Section 174 of BNSS, an FIR in respect of a non-cognizable offence can be registered only upon obtaining prior orders from the learned jurisdictional Magistrate. In the absence of such prior permission, the registration of the FIR is illegal and all further proceedings pursuant thereto amount to an abuse of process of law and are liable to be quashed.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the petitioner had illegally transported sand by using a Kubota machine and a tractor. However, he fairly conceded that as per the report of the Assistant Director of Mines, the value of the sand recovered from the vehicle is Rs.750/-. He further submitted that the case stands posted for appearance of the accused before the trial Court on 06.03.2024.



5. As stated above, as per Section 174 of BNSS, if the value of the property is less than Rs.5,000/-, only after getting appropriate orders from the learned Magistrate who has power to try the case, an FIR can be registered. In this case, no permission had been obtained and hence, the FIR registered against the petitioner is unsustainable in law and it is an abuse of process of law.

6. In view of the above, this Criminal Original Petition is allowed and the entire proceedings in C.C.No.101 of 2025 pending on the file of the Judicial Magistrate Court, Kothagiri, is quashed as against the petitioner. Consequently, connected Miscellaneous petitions are closed.

12-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VKR

To

1.The Judicial Magistrate, Kothagiri.

2.The Inspector of Police,
Kothagiri Police Station,
The Nilgiris.

3.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

VKR

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