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CRL OP No. 8648 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL OP No. 8648 of 2026
and Crl.M.P.No.6150 of 2026**

P.Kandasamy
S/o.Perumal gounder
D.No.2/42 Kolakarai,
Chinnagoundanur village,
Mothaiyanur post,
Sankari Taluk, Salem District

..Petitioner(s)

Vs

State rep by The Inspector of Police
Sankari Police station,
(Crime No.303 of 2021)Salem

..Respondent(s)

Criminal Original Petition is filed under Section 528 BNSS to call for the records pertaining to C.C.No.98 of 2023 on the file of the Judicial Magistrate No.1 Sankari and quash the same as illegal, incompetent and without jurisdiction by allowing the present Criminal Original Petition

For Petitioner(s):

Mr.T.N.Rangesh Kanna

For Respondent(s):

M/S. LEONARD ARUL JOSEPH SELVAM
ADDITIONAL PP



ORDER

The petitioner / accused facing trial in C.C.No.98 of 2023 had filed this quash petition.

2. The contention of the petitioner is that initially FIR has been registered in Cr.No.303/2021 on 24.07.2021 for the offences under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 IPC and after conclusion of investigation, charge sheet has been filed in CC No.98/2023 only under Section 379 IPC. The primary ground was that the petitioner illegally transported limestone in a lorry bearing Reg.No.TN-52-B-3046. The learned counsel for the petitioner submitted that when there is no charges of violation of Mines and Minerals act, the transportation of limestone by the petitioner would not amount to any theft.

3. Learned Additional Public Prosecutor strongly opposed the petitioner's contention and submitted that in this case the petitioner's vehicle was intercepted and he was caught red handed in illegally transporting limestone without valid permit. Further, in this case the complainant is none other than an Assistant Geologist from the Geology Department and the eye witness is a Tahsildar of Geology and Mining Department and they have confirmed that the petitioner was found in possession of limestone which is illegally transported by him. There are other eye witnesses namely L.W.3 and L.W.4 who corroborated



the evidence of L.W.1 and L.W.2.

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4. In a case registered under Mines and Minerals Act, a complaint has to be filed independently and the same has to be done by the competent person. In this case, the police officials have filed charge sheet for the offence under Section 379 IPC. There are proof for seizure and recovery of limestone. The points raised by the petitioner are technical. Further this Court and the Hon'ble Apex Court has held that both the offence under Section 379 IPC and the offence under the Mines and Minerals Act can co-exists independently and by not filing charge sheet for the offence under the Mines and Minerals Act, would not straight away absolve the petitioner from the offence committed by him.

5. Considering the facts and circumstance of the case, this Court finds that the points raised by the petitioner are factual which has to be raised during trial before the trial Court. Hence this Court is not inclined to allow this petition. It is seen that in this case, charge sheet has been filed on 28.11.2021 and trial has not yet been commenced so far. Due to pendency of this case, the petitioner being a driver, is unable to make his earnings. In view the same, the trial Court is directed to give preference to this case and complete the trial as early as possible, preferably within a period of six months from the date of receipt of a copy of this order.



6. In view of the above, this Criminal Original Petition is dismissed.

Connected miscellaneous petition is closed.

07-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To:

1. The Inspector of Police
Sankari Police station,
(Crime No.303 of 2021)Salem

2. Judicial Magistrate I, Sankari.

3. Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

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