



Crl.O.P(MD)No.1410 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2026

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**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P(MD)No.1410 of 2026

and

Crl.M.P(MD)Nos.1513 & 1515 of 2026

R.Balaji

... Petitioner/Accused No.1

**Vs.**

1.The State of Tamil Nadu,  
Rep.by Inspector of Police,  
Srivaikundam Police Station,  
Thoothukudi District.  
(Crime No.255/2024)

... Respondent/Complainant

2.Xavier Franklin

... Respondent/Defacto Complainant

**Prayer:** Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records of the case in PRC No.173 of 2025 on the file of the Learned Judicial Magistrate No.I, Srivaikundam, Thoothukudi District and quash the same.

For Petitioner : Mr.P.Ramachandran

For R1 : Mr.S.Ravi  
Government Advocate(Crl.Side)



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**ORDER**

Seeking quashment of the charge sheet laid in P.R.C.No.173 of 2025 on the file of the learned Judicial Magistrate No.I, Srivaikundam, Thoothukudi District for the offences under Section 303(2) of BNS, 2023 and Section 21(5) of Mines & Minerals (Development & Regulation) Act, 1957, this criminal original petition is filed.

2. Since no adverse order is passed as against the 2<sup>nd</sup> respondent, notice to the 2<sup>nd</sup> respondent is dispensed with.

3. The learned counsel for the petitioner submitted that without following the provisions mandated under Section 22 of Mines & Minerals (Development & Regulation) Act, 1957, the final report has been laid. The police cannot proceed against the offence under the provisions of Mines & Minerals (Development & Regulation) Act, 1957. On the other hand, should resort action to the competent authority. The value of the property is only Rs.1000/-. Hence, it will come within the scope of non-cognizable offense. As per Section 174 of



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BNSS, 2023, the FIR can be registered only after getting an appropriate order from the learned Magistrate, who is having power to try such a case. In the absence of the same, the very registration of FIR is illegal.

4. The learned Government Advocate(Crl.Side) submitted that the petitioner is the 1<sup>st</sup> accused and he is the owner of the land and vehicle. On the date of occurrence, one unit of river sand has been recovered from the petitioner's possession and now, pending PRC stage.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. A careful reading of the charge sheet itself would make it clear that the final report has been laid for the possession of river sand worth about Rs.1,000/-. Since the specific case of the prosecution itself is that the value of the stolen property is Rs.1,000/-, it will clearly fall within the scope of non-cognizable offence. In that case, as per Section 174 BNSS, 2023, the First Information Report can be registered only after



getting an appropriate order from the learned Judicial Magistrate, who is having power to try such a case. In the absence of any specific permission from the Judicial Magistrate, the registration of the First Information Report itself is illegal and the same has been settled time and again by this Court in several cases including in the case of ***S.Jegan Vs. The Inspector of Police, Aralvoimozhi Police Station, Kanyakumari District***<sup>1</sup> and ***Jebaraj @ Jeyaraj Vs. The Inspector of Police, Tirunelveli Taluk Police Station, Tirunelveli District***<sup>2</sup>. Though the learned Government Advocate(Crl.Side) submitted that the offence under Section 303 (2) of BNS, 2023 would be maintainable, this Court is of the considered view that when the schedule to BNS, 2023 makes it clear that if the value of stolen property is less than Rs.5,000/-, the offense would be non-cognizable. Therefore, in all cases registered under Section 303 (2) of BNS, 2023, the police are bound to mention the value of the property and here it is precisely stated as Rs.1,000/- as the value of the property and in the absence of the permission from the learned Judicial Magistrate to proceed against the petitioner, the offence

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1 Crl.O.P(MD)No.16093/2025

2 Crl.O.P(MD)No.19623/2024



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would not be made out. On that ground, the final report in PRC No.173 of 2025 on the file of the Learned Judicial Magistrate No.I, Srivaikundam, Thoothukudi District is quashed.

7. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

**27.01.2026**

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

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To

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



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**L.VICTORIA GOWRI, J.**

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