



Crl.OP.(MD)No.2646 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on: 10.11.2025

Pronounced on: 23.03.2026

PRESENT

The HONOURABLE MRS.JUSTICE S.SRIMATHY

CRL OP(MD)No.2646 of 2023

and

CRL MP(MD)No.2382 of 2023

1. Martin Peter

2. Vaishnav

3. K.B.Babu

... Petitioner

Vs.

1. The Inspector of Police,
Kurangani Police Station,
Theni District.
Crime No.1 of 2022.

2. P.Saravanan

... Respondents

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl.side)



Crl.OP.(MD)No.2646 of 2023

PETITION FOR QUASH Under Sec.482 of Cr.P.C.

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PRAYER :- To record the additional grounds urged by the petitioners and Quash the Final report in C.C.No.200/2025 in Crime No. 1 of 2022 on the file of the learned Judicial Magistrate, Bodinayakanoor, Theni District, and Quash the same.

ORDER: The Court made the following order :-

This criminal original petition has been filed to quash of the final report in C.C.No.200 of 2025 in Cr.No.1 of 2022 on the file of the Judicial Magistrate, Bodinayakanoor, Theni District.

2. The case of the prosecution is that the defacto complainant namely P.Saravanan lodged a complaint alleging that during his routine rounds at the check post in the jurisdiction of the first respondent police, on 02.01.2022, at that time it was found that the petitioners have been transporting gravel in three tipper lorries each carrying 3 units with Registration Nos. KL 68 A 3588, KL-02-BA-8097 and KL-09-AM 8883 respectively and the same were driven by the petitioners above named, from Bodi to Kerala. On enquiry, it revealed that even though the petitioners are having valid permit for transport the said



Crl.OP.(MD)No.2646 of 2023

gravel for one trip only, they were transporting twice a day with a single permit and hence they seized the lorries with the gravel and had filed the above complaint against the above petitioners for offences under Sections 379, 417 and 420 of IPC in Crime No.1 of 2022.

3. At the time of admission on 07.10.2025 this Court issued interim direction to prosecution not to file any final report in the Crime No. 1/2022. However, without obeying the interim order the prosecution had filed Final Report before the Judicial Magistrate, Bodinayakanoor which was taken on file as C.C. No.200/2025 under sections 379, 417 and 420 of IPC.

4. Hence the petitioners were directed to file additional grounds challenging the Final Report subject to the rights of the prosecution to raise grounds. Based on the direction the petitioners had filed additional grounds against the said final report.

5. Heard Mr.P.Mahendran, the Learned Counsel appearing for the petitioner and Mr.A.S.Abul Kalaam Azad, the Learned Government Advocate (Crl.) and perused the records.



Crl.OP.(MD)No.2646 of 2023

6. The contention of the petitioners are that the petitioners are only drivers of the said Tipper Lorries and the owners of the quarry and the vehicle was not arrayed as accused. Further submitted that the load was carried by the petitioners in connection with the PWD-Government works at Rajakadu, Kerala State from Theni. And they have been transporting the gravel with valid receipts bearing No. 5299, 5300, and 5301 trip sheets and transport as per the timings in the trip sheets only i.e. 10 am, 10.30 am and 11.00 am. Also submitted that the prosecution had alleged in FIR that the petitioners have been transporting the gravel two times a day on a single trip sheet. The petitioner submitted that the said allegation is absolutely false, since the distance between Theni to Raikad, Idukki District is more than 70 kilometers and it is hill area. It is very difficult even to transport the gravel once a day. Hence it is highly imaginary that the petitioners are carrying the gravel two times a day. The present case is foisted against the petitioner without any valid evidence that too for statistical purposes. In order to consider the contention of the petitioner the relevant provisions is extracted hereunder:

Section 379 of IPC reads as under:

“379.Punishment for theft.-Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”



Crl.OP.(MD)No.2646 of 2023

Section 21(4) of the Mines and Minerals (Development and Regulation) Act, reads as under:

“21.(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer of authority specially empowered in this behalf.”

7. In the present case permission was granted to the petitioners to transport the gravel in trip sheets bearing No. 5299, 5300, and 5301 and the timings in the trip sheets are 10 am, 10.30 am and 11.00 am. If the prosecution is disputing the trip sheets and the timing, then the prosecution ought to have conducted an enquiry with the competent authority who had issued the trip sheets, but prosecution have not conducted any enquiry to the competent authority, which the prosecution failed to do so. Even if it is violation of the conditions of permit either the owner of the gravel or the owner of the vehicle could be proceeded as per the provisions of the Mines and Minerals (Development and Regulation) Act, 1987. On the other hand, for violation of the permit, the petitioners being drivers cannot be proceeded certainly under section 379 IPC or section 21(4) of the Mines and Minerals (Development and



Crl.OP.(MD)No.2646 of 2023

Regulation) Act. Hence the offences mentioned in the FIR are not attracted against the petitioners.

8. The similar issue was considered by another Learned Single Judge in Crl.O.P.(MD)No.22346 of 2023 wherein it is held as under:

“6. The genuineness of the trip sheet is not disputed by the prosecution. What is disputed is only the time limit. Even as per the case of the prosecution, permission was granted up to 11.20 pm, on 16.06.2023 to transport the crushed stones.

...

10.As mentioned above, permission was granted to the petitioners to transport the crushed stones. If there is any discrepancy with regard to the time limit, then the Investigating Officer ought to have verified the same with the competent issuing authority. That was not properly done. So even if, we consider that it is violation of the condition of permit with regard to the time either the owner of the crushed stones or the owner of the vehicle can be proceeded as per the provisions of the Mines and Minerals (Development and Regulation) Act, 1987. But for violation of the permit, the petitioners cannot be proceeded certainly under section 379 IPC or section 21(4) of the Mines and Minerals (Development and Regulation) Act. So the offences mentioned in the FIR are not attracted against the petitioners.



Crl.OP.(MD)No.2646 of 2023

11. Without following the proper procedure, FIR has also been registered, which I am of the considered view that continuation of the prosecution will amount violation of principles. On that account, without going into the other aspects, the petition is liable to be allowed.

12. In the result, this criminal original petition is allowed. The FIR in Crime No.154 of 2023 pending on the file of the Inspector of Police, Araivoimozhi Police Station, Kanyakumari is herein quashed against the petitioners. Consequently, connected Miscellaneous Petition is closed.”

9. Even if there is any violation, the authorities under Tamil Nadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers Rules 2011 have power to impose fine, as held in Crl.O.P. (MD)No.11749 of 2021 vide order dated 29.09.2023 wherein it is held that if there is any violation then the competent authority i.e. District Collector can only impose fine. FIR cannot be registered under section 379. Therefore, this Court is of the considered opinion that in the present case also the prosecution ought not to have filed FIR as held in the aforesaid judgments.

10. The next contention of the petitioner is that the section 417 and 420 of IPC are not attracted, since the alleged act would not come within the



purview of the definition of cheating. In order to consider the same section 415, 417 and 410 are extracted hereunder:

“415. Cheating. —Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

417. Punishment for cheating. —Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

420. Cheating and dishonestly inducing delivery of property. —Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

The said section would be application when there is inducement to deliver the property deceiving the person. It is seen that the allegation against the



Crl.OP.(MD)No.2646 of 2023

petitioners is that they were carrying load for two times in single trip sheets.

The said allegation would not come under the definition cheating at all. Infact the illustration stated under section 415 would clearly prove that the allegation in the charge sheet would not come within the purview of the section. Therefore, this Court is of the considered opinion that the said section would not be at all attracted.

11. The next contention of the petitioner is that the respondent police filed the charge sheet in a most hurried manner without conducting proper enquiry, that too when there is an interim direction by the High Court not to file the final report, hence the charge sheet ought to be considered as non-est in law. Unfortunately, the final report was taken on file by the Judicial Magistrate, Bodinayakanoor. On the other hand, the prosecution submitted that the charge sheet had been filed, hence quashing of FIR cannot be entertained. The said issue is no longer res integra and the issue is settled by Hon'ble Supreme Court in Ruchi Majoo Vs. Sanjeev Majoor reported in (2011) 6 SCC 479, Anand Kumar Mohatta Vs. State of NCT of Delhi Home Department reported in (2019) 11 SCC 706, Abhishek Vs. State of Madhya Pradesh reported in 2023 SCC OnLine SC 1083, Kailashben Mahendrabhai Patel and others Vs. State of Maharashtra and another reported in AIR 2024 SC 4825 and Shaileshbhai Ranchhodbhai Patel and another Vs. State of Gujarat and others reported in



Crl.OP.(MD)No.2646 of 2023

2024 SCC OnLine SC 5569. In the aforesaid judgments it is held that the High Court under section 482 Cr.P.C. retains the power to quash FIR even after charge sheet under section 173(2) is filed provided a satisfaction is reached that either the FIR and charge sheet read together even accepted as true and correct without rebuttal does not disclose commission of any offence and continuation of proceedings of such FIR would be abuse of process of law as well as of the given peculiar circumstances of each particular case. This Court has already held that the Sections 379, 417 and 420 of IPC would not be attracted hence the continuing the prosecution is abuse of process of law and the impugned FIR and Charge Sheet is liable to be quashed.

12. For the reasons stated supra, the impugned charge sheet in C.C.No. 200/2025 in Crime No. 1 of 2022 on the file of the learned Judicial Magistrate, Bodinayakanoor, Theni District is hereby quashed. Accordingly, the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

23.03.2026

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Crl.OP.(MD)No.2646 of 2023

1. Judicial Magistrate,
Bodinayakanoor,
Theni District.

2.The Inspector of Police,
Kurangani Police Station,
Theni District.
Crime No.1 of 2022.

3.The Additional Public Prosecutor,
Madurai Bench Of Madras High Court,
Madurai.



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Crl.OP.(MD)No.2646 of 2023

S.SRIMATHY,J

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ORDER
IN

CRL OP(MD) No.2646 of 2023

Date : **23.03.2026**