



Crl.OP(MD)No.23228 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.23228 of 2025

and

Crl.M.P.(MD)No.20142 of 2025

Nagoor Meeran,

... Petitioner/Accused No.2

Vs.

State of Tamilnadu,
Reb by. The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
(Crime no.823/2025)

... Respondent / complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in FIR No.823/2025 on the file of the respondent police and quash the same.

For Petitioner : Mr.Sricharan Rengarajan,
Senior counsel
For Mr.H.Mohamed Ashick

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)



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ORDER

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 of the Code of Criminal Procedure, 1973), praying to call for the records pertaining to the FIR in Crime No.823 of 2025 dated 05.12.2025 on the file of the respondent police and to quash the same in so far as the petitioner / Accused No.2 is concerned, and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Preface:

2. The inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is intended to prevent abuse of the process of law and to secure the ends of justice. While the power to quash criminal proceedings is to be exercised sparingly, it is equally well settled that when the allegations in the First Information Report, even if taken at their face value, do not disclose the essential ingredients of the alleged offence, this Court would be justified in intervening at the threshold.



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3. The present Criminal Original Petition raises a recurring and significant issue concerning the mechanical invocation of the offence of theft under Section 303 of the Bharatiya Nyaya Sanhita, 2023, in cases involving licensed quarry operators or stockyard licence holders, solely on the basis of alleged violations of mining or transport conditions, without satisfying the foundational ingredients of the offence of theft.

Facts of the case:

4. The petitioner is arrayed as Accused No.2 in Crime No.823 of 2025 registered on 05.12.2025 by the respondent police for the alleged offence under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023. The case of the prosecution, as emerging from the FIR, is that on 05.12.2025, while the Special Sub-Inspector of Police and the police party of Tirunelveli Taluk Police Station were on patrol duty, they received secret information that M-Sand was being transported illegally in a tipper lorry.

5. Acting on such information, the police intercepted a tipper lorry bearing Registration No. TN 72 AS 2705 near Manappadai



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Veedu Bus Stop and allegedly found about two units of M-Sand being transported without any valid permit or transit pass. The driver of the vehicle, Accused No.1, namely Savari Ramesh, was apprehended.

6. It is stated in the FIR that Accused No.1 claimed ownership of the vehicle and allegedly stated that he was transporting M-Sand without permit for additional profit. The FIR further records that Accused No.1 allegedly disclosed that the M-Sand in question was loaded from a crusher unit said to be run by the petitioner at Thalaiyuthu under the name “Welcome Blue Metals”.

7. Based solely on the said disclosure statement of Accused No.1, the petitioner was arrayed as Accused No.2, and the FIR came to be registered alleging that Accused Nos.1 and 2 had jointly engaged in unauthorised extraction, possession, and transportation of M-Sand, thereby committing an offence under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023.



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Grounds for quash:

8. The petitioner contends that he is a lawful licence holder under the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers Rules, 2011.

9. It is submitted that the petitioner originally held a valid Form-D licence from 2018 to 2023 for storing and processing rough stone, jelly, and M-Sand in S.F. No.82/2 of Thalaiyuthu Village, and that the licence was subsequently renewed and transferred in favour of his son, N. Sadham Mohideen Meeran, Proprietor of “Welcome Blue Metal”, for the period from 07.08.2023 to 06.08.2028. The licence expressly authorises storage, processing, handling, and sale of M-Sand and other permitted minerals, and therefore possession of the minerals stored in the licensed premises is lawful.

10. It is contended that the essential ingredients of theft under Section 303 of the Bharatiya Nyaya Sanhita, namely dishonest intention, removal of movable property from the possession of another, and such removal without consent, are conspicuously absent in the present case.



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11. According to the petitioner, even as per the FIR, the alleged M-Sand was taken from the crusher or stockyard premises of Accused No.2, and not from State land, riverbed, poromboke land, or from the possession of the State or any third party. It is further contended that the petitioner is neither the owner nor the driver of the intercepted vehicle, was not present at the scene of occurrence, and is not alleged to have issued any instruction for transportation.

12. The sole basis for implicating the petitioner is the alleged statement of Accused No.1, which is a disclosure made in police custody and is inadmissible in law in the absence of independent corroborative material. The petitioner submits that continuation of the criminal proceedings would amount to abuse of the process of law and would cause irreparable prejudice and reputational harm to a bona fide licence holder.

Submissions:

13. The learned counsel for the petitioner submitted that the present case is squarely covered by the principles laid down by this Court in earlier decisions, including a recent judgment of this Court



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delivered on 25.11.2025, wherein similar FIRs registered against licensed quarry operators and stockyard licence holders under the offence of theft were quashed.

14. It was argued that theft can be made out only when minerals are removed from the possession of the State or another person without consent, and that mere violation of licence conditions or absence of a transit pass cannot ipso facto constitute theft. The learned counsel emphasised that possession, and not ownership, is the relevant factor for constituting theft, and that a person cannot be accused of stealing minerals from his own lawful possession.

15. It was further submitted that the Supreme Court judgment in **NCT Delhi v. Sanjay**¹ has been consistently interpreted to apply only to cases of illegal mining from State land or State possession.

16. Per contra, the learned Government Advocate (Crl. side) submitted that the FIR is at a preliminary stage and that the police have intercepted the vehicle red-handed transporting M-Sand without a valid transit pass. It was argued that all minerals vest with

¹ AIR 2015 SC 75



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the State, and therefore unauthorised transportation of minerals without permission would amount to theft.

17. The learned Government Advocate (Crl. side) further contended that the driver himself admitted that he transported the M-Sand without permit for extra profit and that investigation is required to ascertain the full extent of the offence. It was submitted that the Court may permit the investigation to proceed and that the police would examine whether the ingredients of theft are ultimately made out at the stage of final report.

18. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

19. The point that arises for consideration is whether the allegations in the FIR, even if taken at face value, disclose the essential ingredients of the offence of theft under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023, insofar as the petitioner / Accused No.2 is concerned.



Analysis:

20. Section 303 of the Bharatiya Nyaya Sanhita, 2023, which corresponds to Section 378 of the Indian Penal Code, defines theft as the dishonest taking of movable property out of the possession of any person without that person's consent.

21. The essential ingredients of theft are dishonest intention, removal of movable property, such removal from the possession of another, and absence of consent. It is well settled that ownership is not determinative for the offence of theft, rather, possession is the key factor. A person cannot ordinarily be accused of committing theft of property that is in his own lawful possession.

22. In the present case, the FIR itself records that the M-Sand was allegedly loaded from the crusher premises of Accused No.2, who is a licensed stockyard operator. There is no allegation in the FIR that the minerals were illegally extracted from riverbeds, poromboke lands, or any land in the possession of the State, nor is there any allegation that the minerals were removed from the possession of the State or any third party without consent.



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23. The absence of a transit pass or alleged violation of licence conditions may attract consequences under the Mines and Minerals (Development and Regulation) Act, 1957, or the Rules framed thereunder, but such violation, by itself, does not satisfy the statutory ingredients of theft. The sole material against the petitioner is the alleged disclosure statement of Accused No.1, which, in the absence of independent corroboration, cannot form the foundation for a criminal prosecution.

24. This Court has repeatedly cautioned against the mechanical registration of FIRs for the offence of theft against licensed quarry operators and stockyard holders without examining whether the essential ingredients of the offence are made out. Permitting the investigation to proceed against the petitioner in the absence of any *prima facie* material would amount to subjecting a lawful licence holder to needless criminal proceedings and would constitute an abuse of the process of law.

25. This Court is of the considered view that, even if the allegations in the FIR are accepted in their entirety, no offence under



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Section 303(2) of the Bharatiya Nyaya Sanhita, 2023, is made out against the petitioner. The continuation of the criminal proceedings against the petitioner would therefore serve no legitimate purpose and would result in miscarriage of justice.

26. Criminal law cannot be permitted to be invoked as a substitute for regulatory enforcement, nor can licensed business operators be subjected to criminal prosecution on the basis of conjectures and inadmissible statements. The power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is intended precisely to arrest such abuse at the threshold.

27. In the result, the Criminal Original Petition is allowed. The FIR in Crime No.823 of 2025 dated 05.12.2025 on the file of the respondent police is quashed insofar as the petitioner / Accused No. 2 is concerned. Consequently, the connected Criminal Miscellaneous Petition is closed.

02.01.2026

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

- 1.The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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