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CRL.A.(MD).No.287 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.10.2025

PRONOUNCED ON :19.12.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.A(MD).No.287 of 2023

Vasudevan

.. Appellant/Sole Accused

Vs.

State represented by
The Inspector of Police,
Srivilliputtur Taluk Police Station,
Virudhunagar District.
In Crime NO.08/2013.

.. Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) Cr.P.C, 1973 to call for the records and set aside the conviction and sentence imposed by the Court of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur in S.C.No.08/2019, on 27.03.2023.

For Appellants : Mr.M.Jothi Basu

For Respondent : Mr.K.Gnanasekaran
Government Advocate (Crl.Side)

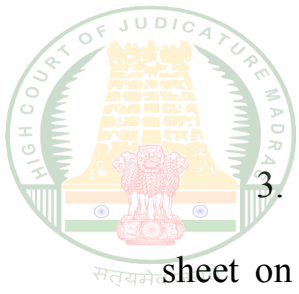


JUDGMENT

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The Criminal Appeal is directed against the judgment of conviction made in S.C.No.8 of 2019, on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputtur.

2. The Inspector of Police, Srivilliputtur Taluk Police Station laid a final report against the appellant/accused that the defacto complainant is a retired teacher residing at Nachiyarpatti and the accused belongs to the same village, that the accused has got quarry permit for the land in Survey No.319/3 for the period from 10.02.2004 to 09.02.2009 and during the said permit period, the accused also quarried mineral found in the adjacent lands in Survey No.588/12 classified as cart track poromboke and Survey No.588/14 classified as lake poromboke with an intention to commit the theft of the same, that the accused had quarried about 5181 units of stones without any permit and thereby caused loss of Rs.18,13,350/- to the Government, that the accused also caused damage to the Government property and to correct the same, the Government has to incur Rs.18,58,144/-, that the defacto complainant made petitions against the accused and hence, the accused threatened him with dire consequences and that the accused thereby had committed the offences under Sections 379 and 506(i) I.P.C., and Section 3(1) of TNPPDL Act.



3. The learned Judicial Magistrate No.II, Srivilliputtur took the charge sheet on file in P.R.C.No.17 of 2018 and furnished the copies of the records under Section 207 Cr.P.C., on free of costs. The learned Judicial Magistrate finding that the offence under the provisions of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. are exclusively triable by the Court of Sessions, after the compliance under Sections 208 and 209 Cr.P.C., committed the case to the Principal Sessions Court, Srivilliputtur and the same was taken on file in S.C.No.8 of 2019.

4. After the appearance of the accused, the learned Sessions Judge, on hearing both sides and on perusal of the records, being satisfied there existed a *prima facie* case against the accused, framed the charges under Sections 379 and 506(i) I.P.C., and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 against the accused and the same were read over and explained to him and on being questioned, the accused denied the charges and pleaded not guilty.

5. The prosecution, to prove its case, examined 14 witnesses as P.W.1 to P.W.14 and exhibited 9 documents as Exs.P.1 to P.9 and marked one material object as M.O.1.

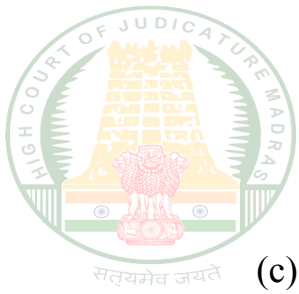


6. The case of the prosecution emerging from the evidence adduced by the prosecution, in brief, is as follows:

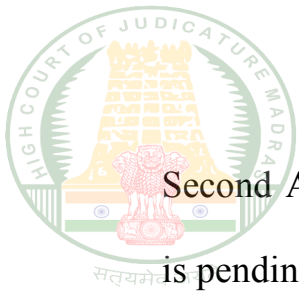
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(a) P.W.1 – Balakrishnan, the defacto complainant, a retired teacher, is residing at Nachiyarpatti Village. PW.3 Gurusamy is working in a cracker manufacturing company. The accused also belongs to the same village of Nachiyarpatti. The land in Survey No.588/11 of Ayan Nachiyarpatti Village is owned by the accused. The accused was granted lease to operate a stone quarry in Survey No.588/11 of Ayan Nachiyarpatti Village and Survey No.319/3 of Achamthavilthan Village for the period of five years by the order of the District Collector dated 27.01.2004 under Ex.P.5, but the accused had quarried stones in the adjacent lands in Survey No.588/12 classified as cart track poromboke and the land in Survey No.58/14 classified as lake poromboke.

(b) P.W.1 sent so many complaint to various authorities, but there was no action. Hence, he filed a petition in CrI.O.P.(MD)No.14849 of 2010 seeking registration of the case and obtained orders on 18.10.2012. In pursuance of the said orders, P.W.10 – then Sub Inspector of Police, Srivilliputhur Taluk Police Station, received a complaint from P.W.1 under Ex.P.1 and registered the case in Cr.No.8 of 2013 against the accused for the offences under Sections 451, 379, 506(ii) I.P.C., and Sectin 3 of TNPPDL Act and prepared the F.I.R., under Ex.P.6.



(c) On 07.02.2019, one Rangasamy submitted a complaint before the District Collector, Virudhunagar District in the grievance day meeting against the accused for illegal mining and theft of minerals in the Government properties. The District Collector directed the Assistant Director of Geological and Mines Department to conduct an enquiry and submit a report. In pursuance of the same, P.W.4 – then Assistant Geologist and P.W.13 – Ayyakutti, then Special Deputy Tahsildar (Mines) along with other officials inspected the place of quarry and found that the accused had excavated stones from the adjacent lands in Survey No.588/12 classified as cart track poromboke and in Survey No. 588/14, classified as lake poromboke and ascertained the total excavation at 14663 Cubic Metres and submitted a reprot dated 08.12.2009 under Ex.P.2. After receiving the said report, P.W.12 – Thiru.Kasi Viswanathan, then Revenue Divisional Officer, Sivakasi issued a show cause notice to the accused. The accused submitted a reply. P.W.12 passed an order dated 05.03.2010 under Ex.P.8 imposing a fine of Rs.28,23,645/- against the accused. On the request made by the police, P.W.11- the then Revenue Tahsildar of Srivilliputtur gave the copies of adangal and “A” register for the lands in Survey Nos.588/12 and and 588/14 under Ex.P.7. The accused filed an appeal before the District Collector, Virudhunagar challenging Ex.P.8 order and the same was dismissed on 20.12.2012. Challenging the dismissal of the appeal, the accused filed

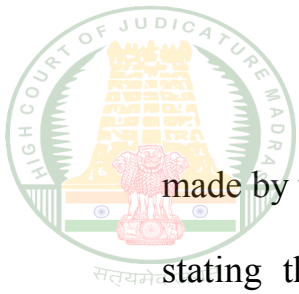


Second Appeal before the Commissioner of Geology and Mining, Chennai and
is pending.

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(d) P.W.14-Thiru Mahendrapandian – then Inspector of Police took up the case in Cr.No.8 of 2013 for further investigation and visited the place of occurrence and prepared the observation mahazar under Ex.P.3 in the presene of P.W.5 – Alagarraj and one Gurusamy and drew a rough sketch under Ex.P.9. P.W.14 examined P.W.1, P.W.4, P.W.5, P.W.12, P.W.13 and observation mahazar witnesses and recorded their statements. He also examined P.W.10 – Sub Inspector of Police, who registered the F.I.R. After his transfer, he handed over the case file to his successor Thiru.Devarajan, who in turn handed over the file to his successor Maheshkumar.

(e) The said Inspector of Police Maheshkumar took up the case for further investigation and examined the witnesses P.W.6 to P.W.9 and recorded their statements. After completing the investigation, he filed the final report against the accused for the offences under Sections 379, 506(i) I.P.C., and under Section 3(i) of TNPPDL Act. P.W.9 – then Head Constable attached to the respondent police, as per the instruction of P.W.14 had taken up photos in the place of occurrence and submitted the same with C.D., under Ex.M.O.1 series. P.W.7 – the then Union Engineer of Srivilliputtur Panchayat Union, as per the request



made by the police, inspected the quarry and and submitted a report under Ex.P.4 stating that Rs.18,58,144/- is required for filling up the pits caused in the Government lands. With the examination of P.W.14, the prosecution has closed their side evidence.

(f) When the accused was examined under Section 313(1) (b) Cr.P.C with regard to the incriminating aspects found as against him in the evidence adduced by the prosecution, he denied the same as false and stated that a false case has been foisted against him. Though the accused stated that he is having defence evidence, he has not let in any evidence subsequently.

7. The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments of both sides, passed the impugned judgment dated 27.03.2023 convicting the accused for the offence under Section 379 I.P.C., and sentenced him to undergo one year Rigorous Imprisonment and to pay a sum of Rs.5,000/- as fine, in default to undergo one month Simple Imprisonment and convicted the accused for the offence under Section 3(i) TNPPDL Act and sentenced him to undergo one year Rigorous Imprisonment and instead of fine, imposed compensation of Rs.18,58,144/- directing the District Collector to use the said amount for restoring the land in Survey Nos. 588/12 and 588/14 of Nachiyarpatti Village and holding that the prosecution



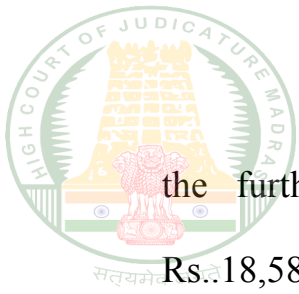
failed to prove the charge under Section 506(i) I.P.C., acquitted the accused under Section 235(1) Cr.P.C. Aggrieved by the judgment of conviction and sentence, the accused preferred the present appeal.

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8. Heard the learned Counsel appearing for the appellant and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

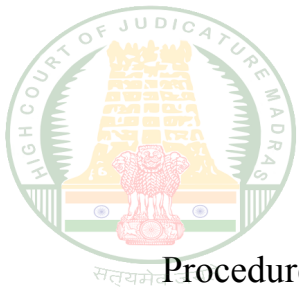
9. Whether the impugned judgment of conviction and sentence imposed in S.C.No.8 of 2019, dated 27.03.2023 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur is liable to be set aside? is the point of consideration?

10. The case of the prosecution is that the accused was granted a lease to operate a stone quarry in S.No.319/3 of Achamthavilthan Village and 588/11 of Ayan Nachiyarpatti Village for the period between 10.02.2004 to 09.02.2009 by the District Collector, Virudhunagar, that the accused during the said five years period had also quarried stones in the adjacent lands in S.No.588/12 classified as cart track poromboke and S.No.588/14 classified as lake poromboke and the total extent of 14662 cubic meter stone was illegally quarried by the accused and that thereby caused loss to the tune of Rs.18,13,350/- to the Government. It is



the further case of the prosecution that the Government has to incur Rs.18,58,144/- for filling up the pits and levelling the lands and that fine levied at Rs.28,23,645/- under the Mines and Minerals Act and Rules framed thereunder, was not paid and that since the defacto complainant sent several complaints, the accused had threatened him with dire consequences.

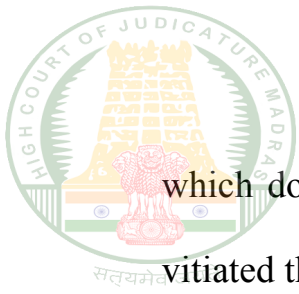
11. The learned Counsel for the appellant/accused would submit that though the prosecution has alleged that the accused had quarried stone in the adjoining lands in Survey Nos.588/12 and 588/14, there was no direct evidence to show that the accused alone had quarried stones in the said survey lands, that the prosecution has neither furnished particulars nor produced any evidence to show how the accused had taken the stones, how it was transported and to whom it was transported and that the prosecution mainly relied on the report given by P.W.4 and P.W.13 in the year 2009, as if the appellant had illegally quarried the said lands, that the Second Appeal filed by the accused before the Commissioner of Geology and Mining, Chennai is pending, that since the competent authorities under the Mines and Minerals (Development and Regulation) Act and the Tamil Nadu Mines and Minerals Concession Rules, have already taken action and imposed fine, the present prosecution cannot legally be sustained, that the authorities under the Mines and Minerals (Development and Regulation) Act are duty bound to follow the procedures stated under Section 100 of the Criminal



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Procedure Code at the time of inspection or before conducting search and it is the duty of the concerned officer under Section 100(4) Cr.P.C., to call upon two or more independent and respectable inhabitants of the locality in which the search place is situated, but in the present case such a procedure has not been followed and that therefore, the inspection made by the revenue officials and action taken on that basis are illegal.

12. The learned Counsel for the accused would further submit that even according to the prosecution, the District Collector directed the Assistant Director of Geology and Mining to conduct an enquiry and submit a report, but admittedly the Assistant Director of Geology and Mining – P.W.8 has not conducted any inspection and P.W.4 Assistant Geologist along with the Special Tahsildar (mines) have conducted inspection and filed the report and that since the Assistant Director of Geology and Mining was deputed to conduct the inspection, he has no right to delegate the said duty to his subordinates and as such, the inspection conducted by them and the report submitted therefor are illegal. The learned Counsel would further submit that the charge framed against the accused does not contain the particulars of place, time and person and the charge must also contain the particulars of the manner in which the alleged offence was committed, but the charges in the present case are vague and bald



which does not reveal the case of the prosecution and that therefore, the same vitiated the conviction and is liable to be set aside.

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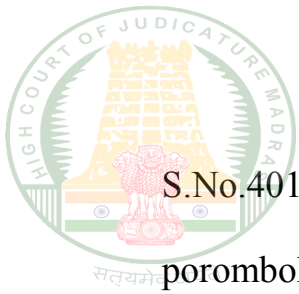
13. The learned Government Advocate (Crl.Side) would submit that the prosecution witnesses P.W.1 and P.W.3 have deposed about the illegal quarrying of stones in the cart track poromboke and lake poromboke by the accused, that P.W.4 and P.W.13 have deposed about the inspection conducted by them, in pursuance of the directions of the District Collector, Virudhunagar and submitting of their report that the accused had illegally quarried the said lands to an extent of 14662 Cubic Metre and on the basis of the said report, P.W.12 passed an order imposing the fine of Rs.28,23,645/-, that the appeal filed by the accused before the District Collector, Virudhunagar was already dismissed and the Second Appeal before the Commissioner of Geology and Mining, Chennai is pending,, that the lands in dispute were classified as lake poromboke and cart track poromboke and the accused without any permission quarried the said lands along with his own land for which licence was granted and that the prosecution through ample evidence has proved the charges levelled against the accused.

14. The learned Government Advocate (Crl.Side) would further submit that the charge framed against the accused contains the necessary and required particulars, that the accused was fully aware of the case of the prosecution and



participated in the trial and that even assuming that there are some errors in the charges, in the absence of any prejudice caused or that failure of justice occasioned, that will not vitiate the conviction. He would further submit that the ingredients for the offence under Section 379 I.P.C., and for the offence punishable under Section 21 of the Mines and Minerals (Development and Regulation) Act are different and that there is no bar for the police from taking action against the persons for committing the theft of sand and minerals by exercising power under the Code of Criminal Procedure and that therefore, since because fine was imposed under the Mines and Minerals (Development and Regulations) Act, that by itself will not debar the police from registering the case and from prosecuting the accused for the offence under I.P.C., and TNPPDL Act.

15. As rightly pointed out by the learned Government Advocate (Crl.Side), P.W.1 – complainant gave evidence reiterating the complaint contentions. P.W.3, a resident of Inam Nachiyarpatti Village corroborated the case of the prosecution that the accused had illegally quarried stones in Survey Nos.588/12 and 588/14 belonging to Government. No doubt, the accused has taken a defence that the lands in Survey Nos.588/12 and 588/14 were comprised in S.No.401/8 of Inam Nachiyarpatti Village, which admeasuring 1.97 Acres, out of which the accused's grandfather Naranappa Naicker purchased an extent of 1.24Acres and one Nallava Naicker had purchased 73 cents on the south of



S.No.401/8 and during re-survey, the said lands were wrongly classified as lake poromboke and cart track poromboke and that the stones were quarried even prior to 1950 and that the accused had never quarried stones in the said lands.

16. The prosecution produced the copy of “A” Register, FMB sketch and Adangal through P.W.11 – then Revenue Tahsildar of Srivilliputtur, wherein it is shown that S.No.588/12 as cart track and S.No.588/14 as Oorani. P.W.11 in his evidence would say that in the village records, there was no survey number as S.No.401/8. The accused has not produced any iota of evidence to show that S.No.401/8 of Inam Nachiyarpatti Village during re-survey was wrongly classified as cart track and Oorani. Though the accused has also alleged that the said lands are also their patta lands, there is absolutely no evidence to substantiate the same. As already pointed out, in pursuance of the directions of the District Collector, Virudhunagar, P.W.4 and P.W.13 along with other officials inspected the lands in dispute and came to conclusion that the accused along with the licenced land had quarried stones in S.Nos.588/12 and 588/14 and quantified the same as 14,662 cubic meters ie., 5181 units and submitted their report under Ex.P.2.

17. It is evident that P.W.12 – then Revenue Divisional Officer, after issuing show cause notice and upon the receipt of the reply from the accused,



passed an order under Ex.P.8 imposing a fine of Rs.28.23.645/-. It is admitted by the accused that his appeal challenging Ex.P.8 order passed P.W.12 was dismissed by the District Collector, Virudhunagar. But according to him, the Second Appeal before the Commissioner of Geology and Mining, Chennai was pending. But the learned Government Advocate (Crl.Side) would submit that the Second Appeal was also dismissed and despite the same, the accused has not chosen to pay the find amount till now.

18. P.W.4 in his cross-examination would say

“புகாரின் ஁யரில் ஆய்வு செய்தன். 14 இ662 கனமீட்டர் அளவிற்கு கல் உடைக்கப்பட்டது. எந்த காலகட்டத்தில் உடைக்கப்பட்டு எடுக்கப்பட்டது என்றால் வாசுதவன் நடத்தி வரும் கல்குவாரியின் தொடர்ச்சியாக ஁மற்படி டேத்தில் கல் உடைக்கப்பட்டு எடுக்கப்பட்டதாலும் அந்த டேத்தில் எதிரி மட்டும கல்குவாரி வைத்து நடத்தி வருவதாலும் எதிரி மீது புகார் வந்ததினாலும் ஁மலும் நான் ஆய்விற்கு சென்ற காலகட்டத்தில் தான் கல் உடைத்து எடுக்கப்பட்டுள்ளது.”

19. P.W.13 in his evidence would depose that they came to know that the accused had quarried the stones in his lands in S.No.588/11 and also in S.No. 588/12 cart track poromboke land and S.No.588/14 Oorani Government poromboke lands illegally. As rightly contended by the learned Government Advocate (Crl.Side), the defence's claim that witnesses did not specify the



quarrying period doesn't hold water, as they didn't deny quarrying happened - they just didn't know when. The lands were allegedly in the same condition since 1950, per the defence.

20. The evidence of P.W.1 and P.W.3 with regard to the illegal quarrying of stones by the accused corroborated with the evidence of P.W.4 and P.W.13 and their report under Ex.P.2. As per Section 378 I.P.C., theft involves dishonestly taking movable property without consent. Explanation 1 to 378 clarifies earth attached things become theft subjects when severed. Considering the way in which quarrying of stones was done, it can easily be inferred that the accused had dishonest intention to steal and remove the stones from the said lands, without licence / permission.

21. As per the request of the police, P.W.7 – then Union Engineer, inspected the lands and ascertained the damages caused to the lands and gave a report under Ex.P.4 stating that the Government requires Rs.18,58,144/- to level the lands. As rightly contended by the learned Government Advocate (Crl.Side), the evidence of P.W.7 corroborates the case of the prosecution that the accused damaged the Government lands and caused loss to the Government exchequer.

22. Now turning to the technical objections, applying a legal maxim



“*delegatus non potest delegare*” that a delegate cannot further delegate.

according to the defence, though the Assistant Director of Geology and Mining was directed to conduct inspection and submit a report by the District Collector, he deputed P.W.4 - Assistant Geologist and P.W.13- Special Tahsildar (Mines) to conduct inspection and that since the Assistant Director himself has not conducted inspection and submitted the report, the inspection conducted by P.W.4 and P.W.13 and their report are illegal.

23. As rightly contended by the learned Government Advocate (Crl.Side), since the District Collector received the complaint in the grievance meeting, directed the concerned Assistant Director to enquire the complaint and submit ta report, who in turn directed his subordinate Assistant Geologist and also the Special Tahsildar (mines), to inspect the quarry lands and as such, the same cannot be faulted. The legal maxim by no stretch of imagination can be made applicable to the case on hand.

24. The learned Counsel for the accused would submit that since the inspection was not conducted in tune with Section 100 Cr.P.C., and since two or more independent witnesses were not taken at the time of inspection violating Section 100(4) Cr.P.C., the inspection conducted by P.W.4 and P.W.13 and their report which are illegal, cannot be looked into. The learned Counsel would rely



on a decision of the Hon'ble Supreme Court in *ITC Limited Vs. State of Karnataka and another* reported in **2025 INSC 1111**. In the said decision case,

the authority acting under Section 15 of the Legal Metrology Act conducted an inspection at the appellant's premises, which is engaged in the business of stationery items including Exercise Books / Notebooks, Pens, Pencils etc., and seized 7600 CFCs/packages of "Classmate" exercise books for the alleged violation of Rule 24(a) of the Legal Metrology (Packaged Commodities) Rules, 2011 and pursuant to the seizure, a seizure notice and a compounding notice were issued to the appellant. When the same was challenged, a learned Single Judge of the Karnataka High Court quashed the notices issued by the second respondent and directed to release the seized goods holding that the search and seizure were conducted without jurisdiction. But in the writ appeal, the Division Bench by observing that the requirement of a search warrant does not arise where action is initiated under Section 15 of the 2009 Act and that the Authority is duly empowered to inspect, search and seize and set aside the order passed in the writ petition. The appellant's review petition was dismissed and challenging the same, he moved a SLP before the Hon'ble Supreme Court. The Hon'ble Apex Court considered the requirements contemplated under Section 100 Cr.P.C., and 100(4) Cr.P.C., and also Section 15 of the Legal Metrology Act 2009, has held that the entire proceedings from search to seizure are illegal and unsustainable, as neither a warrant was obtained nor reasons recorded for search,



inspection or seizure. But in the present case, there was no such search or seizure and only in pursuance of the directions of the District Collector, the competent authorities have inspected the quarry lands and found the damages caused to the Government lands. Hence, the above decision is not applicable to the case on hand.

25. The learned Counsel for the accused would submit that the charges framed against the accused does not comply with the requirements under Sections 212 and 213 Cr.P.C., that the charges does not contain the particulars of time, place and person, nor the manner in which the alleged offence was committed and that therefore the accused was misled by the defective charges and the same vitiates the conviction. The learned Counsel would rely on the decision of the Hon'ble Supreme Court in **Kalicharan and others Vs. State of Uttar Pradesh** reported in (2023)2 SCC 583, wherein it is held as follows:

“ Criminal Procedure Code, 1973 – Ss.211, 212, 213 and III. (e) thereto, 215, 313 and 464 – Omission to frame proper charge and to put relevant circumstances to accused during their examination under S.313 (in a murder case) – Effect of – III.(e) of S.213 CrPC – When applicable – Principles clarified. Held, object of the provisions regarding framing of charge is that accused should be in a position to effectively defend

himself - Accused can properly defend himself provided he is clearly informed about the nature of the allegations against him



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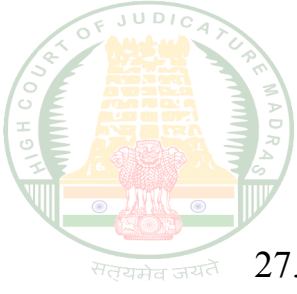
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before the actual trial starts - Further, held, there is the specific requirement of S. 213 CrPC that if the particulars mentioned in Ss. 211 and 212 CrPC do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose - However, in a murder case, this must be read subject to III. (?) to S. 213 CrPC, which states that the charge contains an allegation that A is accused of the murder of B at a given time and place, the charge need not state the manner in which A murdered B

- Regarding effect of error or omission in charge, as per S. 464 CrPC, finding and sentence will be invalid only, if in the opinion of the court of appeal, the error or omission occasioned a failure of justice - While determining whether any failure of justice was occasioned due to omission to frame a charge or error in the charge, held, the court has to examine the entire record of the trial including the statements of the accused recorded under S. 313 CrPC”

26. There is no dispute about the legal position referred above. In the case on hand, the charges were specific that during the lease period from 10.02.2004 to 09.02.2009, the accused with an intention to steal the minerals, had quarried the stones in Survey No.588/12 classified as cart track poromboke and Survey No.588/14 classified as Oorani.



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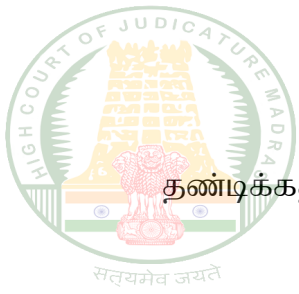
27. At this juncture, it is necessary to refer the first two charges framed against the accused.

□முதலாவது குற்றச்சாட்டு

எதிரியாகிய நீர் உமக்கு கல்குவாரி குத்தகை அனுமதிக்கப்பட்ட காலமான 10.02.2004 முதல் 09.02.2009-ம் தேதி வரை சுமார் 5 ஆண்டு காலமாக கனிமத்தை திருட வேண்டும் என்ற உட்கருத்துடன் அயன்நாச்சியார் கிராமப் புல எண்588/12 ஊரணி புறம்போக்கில் 1865 கன்மீட்டர் அளவில் 659 யூனிட கனிமவள கற்களையும், 588/14 அயன் நாச்சியார் கோவில் வண்டிப்பாதையில் 12797 கன்மீட்டர் அளவில் 4522 யூனிட் கனிம வள கற்களையும், மொத்தம் 5181 யூனிட கனிமவள கற்களைத் திருடிய குற்றத்திற்காக Sec.379 of IPC பிரிவின்படி இந்நீதிமன்றத்தால் விசாரணை செய்யத்தக்கதும், தண்டிக்கத்தக்கதுமான குற்றம் புரிந்துள்ளீர்

□இரண்டாவது குற்றச்சாட்டு

எதிரியாகிய நீர் விருதுநகர் மாவட்ட ஆட்சியரின் செயல்முறை ஆணைப்படி அனுமதிக்கப்பட்ட கல்குவாரி கனிமவள உத்தரவை மீறி அனுமதிக்கப்படாத புல எண்களில் கனிம வள கற்களைத் தோண்டி எடுத்து கிராம வண்டிப்பாதை மற்றும் ஊரணியை வெட்டிச் சேதப்படுத்தி ரூ18,54,144/- சேதாரம் ஏற்படுத்திய குற்றத்திற்காக, Sec. 3(i) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act 1992-ன் படி இந்நீதிமன்றத்தால் விசாரணை செய்யத்தக்கதும்,



தண்டிக்கத்தக்கதுமான குற்றம் புரிந்துள்ளீர்கள்.□

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28. As rightly pointed out by the learned Government Advocate (Crl.Side), P.W.12 had already passed an order dated 05.03.2010 under Ex.P.8 narrating commissions and omissions on the part of the accused and his illegal quarrying of stones during the period of 5 years along with measurements and imposed a fine of Rs.28,23,645/-. The prosecution has relied on the report under Ex.P.2 given by P.W.4 and P.W.13.

29. Considering the above, it is clear that the accused was aware of the accusations and participated in the trial. Even if there were charge defects, he was not misled. Section 464 Cr.P.C. says irregularities are not fatal unless they cause injustice or prejudice. The accused has not shown he was harmed or disadvantaged in his defence. As rightly contended by the learned Government Advocate, no prejudice or justice failure is evident, so the contention is liable to be rejected.

30. The learned Government Advocate (Crl.Side) would rely on a decision of the Division Bench of this Court in ***Sengol and Others Vs. State*** reported in ***2012(1) MWN(Crl)238 (DB)***, wherein the Division Bench while answering the reference has observed as follows:

“(i) Since, the offences under the *Indian Penal Code* involved in



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the cases before us and an offence under [Section 21](#) of the Mines and Minerals [Development and Regulation] Act, 1957 are not the same offences in terms of [Article 20\(2\)](#) of the Constitution of India, the provisions of the Mines and Minerals [Development and Regulation] Act will not exclude the provisions of [IPC](#). Therefore, in respect of sand theft, it will be lawful for the police to register a case as provided in [Section 154Cr.P.C.](#), under [Section 379](#) and other relevant provisions of [IPC](#), investigate the same as per the provisions of the [Code of Criminal Procedure](#) and to lay a final report under [Section 173](#) of the Code of Criminal Procedure, upon which it will be well within the competence of the jurisdictional Magistrate to take cognizance. Therefore, such an FIR, where case has been registered only under the provisions of the [Indian Penal Code](#), shall not be liable to be quashed.”

31. He would also rely on a decision of the Hon'ble Supreme Court in ***State (NCT of Delhi) Vs. Sanjay***, reported in **2014(9) SCC 772**, wherein it was observed as follows:

“71. However, there may be situation where a person without any lease or licence or any authority enters into river and extracts sands, gravels and other minerals and remove or transport those minerals in a clandestine manner with an intent to remove dishonestly those minerals from the possession of the State, is liable to be punished for committing such offence under [Sections 378](#) and [379](#) of the Indian Penal Code.

72. From a close reading of the provisions of [MMDR Act](#).



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and the offence defined under [Section 378](#), IPC, it is manifest that the ingredients constituting the offence are different. The contravention of terms and conditions of mining lease or doing mining activity in violation of [Section 4](#) of the Act is an offence punishable under [Section 21](#) of the MMDR Act, whereas dishonestly removing sand, gravels and other minerals from the river, which is the property of the State, out of State's possession without the consent, constitute an offence of theft."

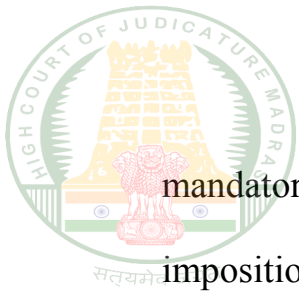
32. Considering the above, it is clear that the action taken under the Mines and Minerals (Development and Regulation) Act and Rules framed thereunder and the present criminal action are entirely different and as such, the present prosecution is legally sustainable. In the above decision, the Hon'ble Apex Court has come down heavily on the theft of minerals and observed that the Court shall take judicial notice of the fact that over the years rivers in India have been affected by the alarming rate of unrestricted sand mining which is damaging the eco-system of the rivers and safety of bridges and it also weakens river beds, fish breeding and destroys the natural habitat of many organisms and if these illegal activities are not stopped by the State and the police authorities of the State, it will cause serious repercussions as mentioned hereinabove and it will not only change the river hydrology but also will deplete the ground water levels.



33. In the light of the above, this Court has no hesitation in holding that the learned Sessions Judge has rightly convicted the accused for the offence under Section 379 I.P.C., and Section 3(1) of TNPPDL Act and as such, the conviction is liable to be confirmed.

34. The learned Sessions Judge sentenced the accused one year Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo one month Simple Imprisonment for the offence under Section 379 I.P.C. For the offence under Section 3(1) of TNPPDL Act, the learned Sessions Judge, after sentencing the accused for one year Rigorous Imprisonment, in respect of fine, awarded compensation of Rs.18,58,144/- probably under Section 357(3) Cr.P.C. But Section 3(i) of TNPPDL Act mandates punishment with imprisonment for a term which may extend to 5 years and with fine. Since the imposition of fine while convicting the accused under Section 3(1) of TNPPDL Act is mandatory, the punishment imposed by the learned Sessions Judge for the said offence cannot be considered legal. If this Court converts the compensation as fine, that will amount to enhancement of sentence and that cannot be done without hearing the accused.

35. It is pertinent to note that only in cases, where imposition of fine is not



mandatory, the Court can award compensation under Section 357(3) Cr.P.C. If imposition of fine is mandatory, the Court is duty bound to impose fine and cannot award compensation in lieu of fine. Considering the above, modification of sentence is necessary. Hence, notice is to be issued to the accused to call upon him to show cause as to why fine should not be imposed for the offence under Section 3(1) of TNPPDL Act.

36. Post the matter on 05.01.2026.

19.12.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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1. The Principal District and Sessions Court,
Virudhunagar District at Srivilliputtur.
2. The Inspector of Police,
Srivilliputtur Taluk Police Station,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

In pursuance of the notice issued, the accused appeared in person along with his Counsel on 05.01.2026. The learned Counsel for the accused submitted that the appeal filed by the Director of Geology and Mining, Chennai is pending and at that juncture, the learned Government Advocate (Crl.Side) sought time to verify whether the appeal is pending. When the matter was taken up on 07.01.2026, the learned Government Advocate (Crl.Side) submitted that the appeal before the Director of Geology and Mining is still pending and that the accused has not paid the fine levied under Ex.P.8.

2. The accused is questioned about the fine to be imposed, as imposition of fine is mandatory for the offence under Section 3(1) of TNPPDL Act. The accused submitted that lesser fine may be imposed and since he is ready to deposit the compensation levied by the trial Court, punishment of imprisonment may be dropped. The learned Counsel for the accused would submit that the accused is aged 58 years and he is the father of three daughters and that he is ready to deposit the compensation amount awarded by the trial Court and hence, the imprisonment may be dropped.



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3. The learned Government Advocate (Crl.Side) would submit that the appellants are neither paid the fine levied under Ex.P.8 nor the compensation awarded by the trial Court and that therefore, they are not entitled to get any leniency in punishment.

4. Illegal mining and mineral theft from Government properties cause severe damage – destroying habitats, polluting the environment and endangering communities. It's devastating for species and deprives the Government of revenue for public services and environment protection. Given the impact, penalties should be tough – significant fines and imprisonment are warranted for such crimes.

5. It is pertinent to note that under Section 3(1) of TNPPDL Act, the imprisonment for a term of not less than six months is mandatory. No doubt, the proviso states that the Court may award a sentence of imprisonment for a term of less than six months by recording special and adequate reasons. In the present case, the accused has not shown any special or adequate reason for imposing a lesser term.



6. Considering the above, the accused is convicted for the offence under Section 379 I.P.C., and sentenced to undergo three months Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months Simple Imprisonment. The accused is also convicted for the offence under Section 3(1) of TNPPDL Act and sentenced to undergo six months Rigorous Imprisonment and to pay a fine of Rs.18,58,144/-, in default to undergo one year Simple Imprisonment. Both sentences are to run concurrently. The period of detention of the accused already undergone shall be set off under Section 428 Cr.P.C. The accused is directed to pay the fine amount before the trial Court within a period of one month from the date of receipt of a copy of this Judgment and to surrender before the concerned Court for undergoing the remaining part of the sentence, if any. In case of failure, the learned Sessions Judge, Virudhunagar District at Srivilliputtur is directed to take necessary steps to secure the accused for undergoing the remaining period of sentence.

7. The Criminal Appeal is partly allowed.

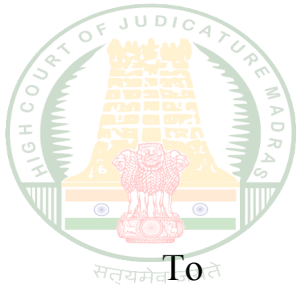
09.01.2026

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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To

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1. The Principal District and Sessions Court,
Virudhunagar District at Srivilliputtur.
2. The Inspector of Police,
Srivilliputtur Taluk Police Station,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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PRE-DELIVERY JUDGMENT MADE IN

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