

Cr. No.157/2012



**Special District Court to Deal with the Cases of Offences in Contravention of the
Provisions of the Mines & Minerals (D&R) Act, 1957, Madurai.**

**Present: Tmt. R. Nanthini, M.L.,
Judge,**

**Mines and Minerals (Development and Regulations) Act, 1957
Court, Madurai District, State of Tamilnadu.**

Tuesday, the 18th day of August, 2026.

Criminal Miscellaneous Petition No.5211/2025

in

Spl.S.C.No.22/2021

in

Crime No. 157/2012

K. Loganathan, (aged 69 / 2025)
S/o. Karuppasamy Naicker,
V.S. Nagar,
Melur Taluk,
Madurai District.
State of Tamilnadu.

....petitioner / Accused No.14

-Vs-

State through the Inspector of Police,
Keelavalavu P.S.
Madurai District.
State of Tamilnadu.
Cr.No.157/2012

...Respondent-Complainant.

This Criminal Miscellaneous Petition filed u/s.227 of Code of Criminal
procedure coming for final hearing on 05.08.2026 in the presence of Advocate



Thiru. V.R. Manokaran, appearing for the petitioner/Accused no.14 and of the Special Public Prosecutor Tmt. G. Dhanalakshmi appearing for the Respondent / State and upon hearing the arguments of both sides and perusing petitioner / accused no.14 side written argument, the available material records and having stood for consideration till this day, this court would deliver the following:-

ORDER

1. This petition has been filed by the Petitioner / Accused No.14 under Section.227 of Code of Criminal Procedure seeking the petitioner / accused no.14 to be discharged from the above Spl.S.C.No. 22/2021.

2. Brief averments of the petition filed by the petitioner / accused no.14 :

It is alleged that, based on the written complaint of A. Mohamed Ali, Village Administrative Officer of E. Malampatti Village, Melur Circle, Madurai District, the Keelavalavu Police Station registered FIR No. 157/2012 dated 06.08.2012 and charge sheet filed under Sections 147, 447, 379, and 120-B IPC r/w Sections 3(i) & 3(ii) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

It is alleged that the prosecution case is that the accused PRP Granites, represented by its managing partners P. Palanichamy (A2), Senthil Kumar (A3),



Suresh Kumar (A4), Selvi (A5), along with their relatives, company managers, employees, and associates, unlawfully trespassed into Survey No. 233/2, a government poramboke water body known as Erichikulam Kanmai in E. Malampatti Village. Between February 2011 and August 2012, and particularly on 03.08.2012, the accused, in furtherance of a criminal conspiracy and on the instructions of A2 to A22, used JCB excavators and tipper lorries to excavate about 300 tractor loads of soil from the Erichikulam Kanmai bund.

It is alleged that the soil was transported and dumped into quarry pits situated in S.Nos. 232/9, 232/10, 232/11, 232/12, and 232/15 belonging to the company, with the intent to level and conceal pits created by prior quarrying. This act allegedly damaged the kanmai bund, depleted water levels, and caused the bund to burst, flooding nearby house sites and agricultural lands, resulting in a government loss estimated at Rs. 36,000/-.

The petitioner / accused no.14, K. Loganathan (A14), is a Practicing advocate by profession and has no ownership, managerial role, or financial interest in P.R.P. Granites or any quarry operations referred to in the prosecution case. The only allegation made against him is that he was allegedly present near the Erichikulam lake along with other accused persons, where soil



was being removed from the bund by JCBs and loaded into tipper lorries for dumping into a quarry pit. It is further alleged that he, along with others, gave instructions to workers and took part in a discussion regarding levelling the pit, constructing a shed, moving materials from other quarries, and relocating workers.

The allegation is vague and general in nature, with no specific details as to the date, time, or the exact act said to have been committed by the petitioner. His name is mentioned along with several others without attributing any distinct or individual role to him. No independent witness, document, or material object links the petitioner / accused no.14 to the alleged incident. There is no proof of his physical participation in the work or any evidence to show that he was in control or possession of the site.

The prosecution materials, even if accepted in full, do not make out any offence against the petitioner. The allegations are based only on suspicion and association, which are insufficient to proceed to trial. Therefore, the petitioner / accused no.14 submits that he is entitled to be discharged from all charges in Crime No. 157/2012 for the following grounds;



The Petitioner/Accused is innocent and has not committed any offences as alleged in the final report and the prosecution has not placed sufficient records to proceed against the accused.

The Petitioner submits that in criminal law, the prompt registration of an FIR is crucial to ensure the authenticity and spontaneity of the prosecution version. In the present case, the alleged date of occurrence is from 03.08.2012, whereas the FIR was lodged only on 06.08.2012 by the then Village Administrative Officer (VAO) of E.Malampatti Village.

It is submitted that non-consideration of such a material and exculpatory document vitiates the entire process of charge framing and results in miscarriage of justice.

Section 447 IPC:

There is no overt act alleged or established against the petitioner / accused no.14 in respect of the offence's u/s 447 IPC. The charge sheet does not disclose any specific act, conduct, or role played by the Petitioner that could attract the essential ingredients of either offence. Vague and omnibus allegations, unaccompanied by any concrete evidence linking the petitioner / accused no.14 to



the alleged act of illegal quarrying or trespass, cannot form the basis for criminal prosecution.

In the absence of any evidence showing unlawful entry into Government land or any wrongful possession by the petitioner / accused no.14, and with no overt act attributable to him, the invocation of these penal provisions is wholly without basis. The Petitioner is therefore entitled to be discharged from the proceedings at the threshold.

Section 379 IPC:

It is submitted that the entire prosecution case is fundamentally flawed and unsustainable in law. The petitioner / accused no.14 submits that he is a practicing Advocate, falsely implicated in this case without any material particulars.

The essential ingredients of Section 379 IPC are not satisfied as there is no allegation or proof that the petitioner himself committed theft or dishonestly removed movable property from the possession of another. The alleged occurrence pertains to Survey No. 233/2, a Government poramboke water harvesting area, where the prosecution claims soil was excavated and dumped in adjoining quarry lands. Even assuming the allegations at their highest, there is no



evidence linking the petitioner / accused no.14 either by recovery, overt act, or eyewitness statement to the alleged excavation. Being an advocate by profession, the petitioner / accused no.14 has no nexus to the alleged quarrying activity, and his roping in is only on vague and omnibus allegations.

Even otherwise, the charge of theft under Section 379 IPC is misconceived. To attract Section 379, the prosecution must establish dishonest removal of movable property from the lawful possession of another, which is absent in the case of Government poramboke soil. Where the charge-sheet materials do not disclose the basic ingredients of the offence, the accused is entitled to be discharged at the threshold under Section 227 Cr.P.C. In these circumstances, continuation of proceedings under Section 379 IPC against an advocate with no proven role amounts to abuse of process of law, and hence the petitioner deserves to be discharged.

Section 3(i) and 3(ii) of the TNPPDL Act, 1992:

It is submitted that Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 (hereinafter TNPPDL Act) is a special penal provision enacted to deter organized mass violence, particularly during political, communal, linguistic, or ethnic agitations and public



demonstrations. The legislative object is not to penalize isolated individual acts, but to hold groups accountable for mob-induced violence and damage to public or private property. In the present case, there is no allegation of any group activity, protest, or demonstration. The complaint/FIR is entirely silent on any collective action or organized gathering that forms the precondition for the application of the TNPPDL Act. Thus, the very foundation for invoking Section 3(1) of the Act is absent.

Damage Assessment shall be by the Competent Authority:

Section 3(1)(i) requires that damage to property must be quantified, and the value of such damage must exceed Rs.100/- . The procedure for such assessment is codified under Rule 4 of the TNPPDL Rules, 1994, which mandates that only the Commissioner of Revenue Administration or his authorized officer can decide the quantum of compensation, and such decision is final and binding under law.

In the present case, no such assessment has been conducted by the Commissioner of Revenue Administration or his authorised Officer in this behalf. This omission is not a curable irregularity but a jurisdictional defect, going to the very root of the prosecution.



The absence of group activity, lack of statutory damage assessment, failure to satisfy essential ingredients under clauses (i) and (ii), and misapplication of the object and scope of the TNPPDL Act render the prosecution legally unsustainable. The continuation of prosecution against the petitioner / accused no.14 under Section 3(1) of the TNPPDL Act is arbitrary, without jurisdiction, and is liable to be discharged.

Section 147 IPC - Rioting

The Petitioner submits that the essential ingredients of Section 147 IPC- existence of an unlawful assembly under Section 141 IPC (minimum five persons with a common object), and the use of force or violence in prosecution of such object-are not made out in the present case. The materials on record do not show any meeting of minds, agreement, or overt acts indicating that the petitioner / accused no.14 shared any such common object. Mere presence at the scene, without proof of active participation or use of force, cannot constitute rioting.

The witness statements are vague, omnibus, and repetitive, containing no specific details of violence or unlawful conduct by the Petitioner. No independent witness, recovery, medical record, or damage assessment substantiates the alleged use of force by any member of the assembly. In the absence of these essential



ingredients, the invocation of Section 147 IPC is a mechanical and arbitrary exercise, amounting to an abuse of process of law, and the petitioner / accused no.14 is entitled to be discharged for this offence.

No Evidence of agreement or meeting of minds 120B:

It is a well-established principle that to attract an offence under Section 120-B IPC, the prosecution must place on record specific and tangible material to show a prior agreement or meeting of minds among the accused to commit an illegal act or a legal act by illegal means.

In the present case, the prosecution has not produced any material or evidence indicating any such agreement or conspiracy between the accused. The mere presence of the accused at or near the place of occurrence, or alleged post-occurrence conduct, is wholly insufficient to constitute the offence of conspiracy.

3. Brief averments of Counter by the respondent:

It is submitted that the eye witnesses statement the petitioner along with other accused abetted to commit the offence to illegally trespass into the government water catchment area situated in survey No. 233/2 at E.Malampatti Village and illegally taken away 300 tractors of sands and dumped in Survey No.332/10, 332/11, 332/12, 332/15 and filled up the pit created by the petitioner /



accused no.14. Hence, the petitioner/accused cannot say that they have nothing to do with the mining lease granted to A1 and never participated in the mining lease. All the eye witnesses have categorically stated about the involvement of petitioner / accused no.14 and other accused in this case. In the statement of the eye witnesses Tr.Chinnakaruppan, Tr.Andiappan, Tr. Nagu, Tr.Palanivel, Tr.Malaichamy had categorically stated that they had witnessed the commission of offences committed by the petitioner/accused no.14 and other accused.

Regarding offence U/s 447, 379, 434 of IPC & 3(i), (ii) & 4 of TNP(PD&L) Act.

It is submitted that the above damage certificate clearly stated about the damages caused by the petitioner/accused and other accused. The petitioner/accused and other accused trespassed into the adjacent Govt. Water catchment area situated in survey no. 233/2 in E.Malampatti Village, soil was being removed with machineries and committed theft of 300 tractor of sand and dumping into a quarry pit in Survey No.332/10, 332/11, 332/12, 332/15 and caused damage to the public property. As per the damage certificate given by the Junior Engineer, PWD/WRD, Periyar Main Canal Section II, Thaniamangalm and Assistant Engineer PWD/WRD, Periyar Main Canal Sub Division-4, Melur that the total cost of the damage caused to the public property by the accused is



Rs. 36,000/-. Hence all the accused including the petitioner/accused is fully responsible for the commission of offence and the loss caused to the Government. There are sufficient oral and documentary evidences to show about the prima facie case made out against the petitioner/accused and other accused.

It is submitted that the averments mentioned in this petition, regarding the grounds for discharge for the offences U/s 3(i) & (ii) of TNPPDL Act, the object for "Tamilnadu Properties (Prevention of Damage and Loss) Act 1992" for preventing the damages caused during the ethnic problems in the name of political, language any other procession is not correct.

It is submitted that the petitioner/accused and other accused trespassed in to the adjoining Government water catchment area situated in survey no. 233/2 at E.Malampatti Village damaged the kanmoi and committed theft of sand and caused wrongful loss to the Government to the tune of Rs. 36,000/-. Hence the petitioner/accused is liable to be punished u/s 3(i) & (ii) and 4 of TNP (PD&L) Act, 1992.

It is submitted that the original word "public" found in the said Sub section has been amended as per Amendment Act, 46 of 1994 with effect from 04.08.1994. Therefore, it is quite clear that parent Act viz., the Tamil Nadu



Property (Prevention of Damage & Loss) Act, 1992 applies both to public and private property.

It is submitted that with regard to the objects and reasons mentioned in the Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992, it is clearly mentioned that this act is for the circumstances such as procession, assembly meeting, agitation, demonstration or other activities, but the statement of objects and reasons can be used only for the purpose of understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the statue.

For enacting the said Act, only reasons have been mentioned in its preamble and the same would not affect the applicability of the said Act even to the circumstances other than the circumstances mentioned therein. Further, the statements of "Objects and Reasons" of a statute cannot be construed as provisions of law. Therefore, it is quite clear that the idea in raising this ground by the petitioner/accused is not legally correct.

Regarding offence U/s 120-B IPC

It is submitted that, in this case committing criminal conspiracy all offences are happened by the petitioner/accused. It is submitted that for framing of



charges that weigh of evidence question is not araised. It is submitted that the prosecution produced direct eye-witnesses, final report, Evaluation Report and damage certificate etc., issued by the authority. The testimonies of the prosecution witnesses are consistent and their statements clearly implicate the petitioner/accused along with other accused.

It is submitted that the according to the 161 CrPC statements of the eye-witnesses, the petitioner/accused is all present in scene of occurrence, confirming their presence as well as knowledge of the illegal mining and whereby all the essentials of the offence of conspiracy is present.

It is submitted that the petitioner/accused is partner of the accused company and were all present in the scene of occurrence of crime and have clearly instructed other accused to carry out the illegal, mining and encroach the Govt. property and damage the government land thereby obstructing the agricultural operations. As the accused has delegated the task to their employees. It is submitted that the imperative legal proposition of Section 10 of the Evidence Act, it introduced the doctrine of agency and if the conditions laid down therein is satisfied, the acts done by one is admissible against the co-conspirators.



Therefore it is prayed that this Court may be pleased to dismiss the petition filed by the petitioner/accused no. 14 as devoid of merits and thus render justice.

4. Now the point for consideration is whether the petitioner/accused no.14 have made out a case that the petitioner/accused could be discharged from the sessions cases as prayed for?

5. It is the case of the petitioner/accused no.14 in the criminal miscellaneous petition that no charges have been made out against him and so he has to be discharged. Whereas, the respondent would oppose stating that all charges alleged against the petitioner/accused no.14 has been clearly made out based on materials produced before this court. On perusal of records in this sessions case in Spl.S.C.No.22/2021, the accused has been arrayed as A14 and a charge sheet has been filed under sections 120(b), 147, 447, 379 of IPC and sec 3 (1) & (ii) of TNPPDL Act 1992 .

6. The arguments on both sides have been duly considered. The materials on record have been perused. The citations quoted by both sides have been carefully perused.



7. In this case in Spl.S.C.No.22/2021 the Investigation Officer collected documents and examined 29 witnesses. The seven witnesses have been referred as eye witnesses who speaks about the accused.

8. On perusal of the case records, it is found that except the 161 Cr.P.C. statements of eye witnesses L.W.2, L.W.3, L.W. 9 to L.W.12, no other materials is available against the petitioner / accused no.14. On a careful perusal of the statements of the eyewitnesses, it is seen that the witnesses have stated only regarding the presence of the petitioner/accused no.14 at the place of occurrence. However, there is no specific statement attributing any particular overt act to the petitioner in the commission of the alleged offence. Further, the materials placed before this Court do not disclose any strong or substantive evidence connecting the petitioner with the commission of the alleged offences.

9. Mere presence of a person at the place of occurrence, by itself, cannot be treated as sufficient material to conclude that such person had participated in or committed the alleged offence. There must be some material indicating the involvement of the accused in the commission of the offence. In the present case, apart from the alleged presence of the petitioner at the place of occurrence, no



sufficient material is available on record to prima facie connect the petitioner/accused no.14 with the alleged offence.

10. At the stage of considering a discharge petition, the Court is required to examine whether the materials placed by the prosecution, if taken at their face value, disclose sufficient ground for proceeding against the accused. The Court cannot permit the accused to be subjected to a criminal trial merely on the basis of suspicion when the materials collected during investigation do not disclose the necessary relation between the accused and the alleged offence.

11. In the present case, the materials available on record do not disclose a prima facie case against the petitioner warranting his further prosecution. The mere fact that the petitioner was allegedly present at the place of occurrence, in the absence of any specific overt act or other incriminating material connecting him with the commission of the offence, cannot by itself constitute sufficient ground to proceed against him.

12. Accordingly this court is of the considered view that the petitioner is roped with out any materials and there is no legally accepted materials against this petitioner/accused no.14 to implicate him in the present case. Since there is



no prima facie case made out against the petitioner/accused no.14 on materials filed by the prosecution side, this court is inclined to hold that the petitioner/accused no.14 has to be discharged and the petition is allowed.

Hence, the above petition is allowed.

Dictated by me to the steno-typist, typed by her directly, corrected and pronounced by me in the open court, on this the 18th day of August, 2026.

Judge,
Special District Court to Deal with the Cases
of Offences in Contravention of Provisions of
the Mines & Minerals (D&R) Act, 1957.
Madurai.



Special Court to Deal with the Cases of
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