



Crl.O.P.(MD)No.21051 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21051 of 2024

and

Crl.M.P.(MD)No.13043 of 2024

Jothi Shankar

... Petitioner

Vs.

1.The Second Class Executive Magistrate
Cum Tahsildar,
Palayamkottai Taluk, Tirunelveli District.

2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records relating to the impugned summon issued by the 1st respondent dated 25.11.2024 in MC.No.A3/01/2024 and quash the same as illegal.

For Petitioner : Mr.S.Karthick Ramkumar

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the summon issued by the 1st respondent dated 25.11.2024 in MC.No.A3/01/2024.

2.The learned counsel appearing for the petitioner would submit that the summon is bereft of any substance of information as to why the petitioner is required to execute a bond for a sum of Rs.10,000/- with two sureties by keeping peace for a period of six months. Further, in the show cause notice, there is no provision mentioned as per Section 130 BNSS. In respect of his contention, he has also placed reliance on the order of this Court dated 24.01.2017 made in Crl.O.P.No.17684 of 2015, where the Division Bench of this Court held that the show cause order under Section 107 r/w 111 is subjected to judicial review under Section 482 Cr.P.C., or under Article 226 of the Constitution of India, if on the face of it, the order does not satisfy the minimum requirement of Section 111. In the present case, the show cause notice was issued under Section 130 BNSS, which analogous to Section 111 Cr.P.C. Hence, the show cause notice may be quashed.



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3.The learned Additional Public Prosecutor appearing for the respondents would submit that admittedly, in the show cause notice, there is no provision mentioned, however, it is clearly mentioned that the petitioner's activities affect the public peace and he is continuing to act in the same manner. Therefore, on receiving such information, the 1st respondent issued the show cause notice. The petitioner, on receipt of the same, has to appear before the 1st respondent and give his explanation. However, he has filed this petition challenging the show cause notice.

4.Considering the fact that the Division Bench of this Court in Crl.O.P.No.17684 of 2015 held that the show cause order under Section 107 r/w 111 is subjected to the judicial review under Section 482 Cr.P.C., or Article 226 of Constitution of India and in the present case, the show cause notice is bereft of any facts and does not satisfy the minimum requirement as contemplated under Section 130 BNSS, this Court is inclined to quash the summon issued by the 1st respondent, accordingly, it is quashed. It is made clear that the 1st respondent is not precluded from issuing show cause notice with substance of information and the details to the petitioner.



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5. With the above observation, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

29.11.2024

NCC : Yes / No
Index : Yes / No

Yuva
To

1. The Second Class Executive Magistrate
Cum Tahsildar,
Palayamkottai Taluk, Tirunelveli District.
2. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

Yuva

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