



Crl.O.P(MD)No.6287 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

Crl.O.P(MD)No.6287 of 2025

and

Crl.MP(MD)No.4565 of 2025

Abdul Kadhar,

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by the Executive Magistrate
and Tahsildar Court,
Nanguneri,
Tirunelveli District.

2. The Inspector of Police,
Ervadi Police Station,
Tirunelveli District.
In L.I.R. No. 8 of 2025.

... Respondents

PRAYER: Criminal Original petition has been filed under Section 528 of BNSS to call for the records relating to the summon in Case No. 22/2025 passed by the 1st respondent dated 20.03.2025 Quash the same and allow this petition.



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Crl.O.P(MD)No.6287 of 2025

For Petitioner : Mr.C. Susikumar

For Respondents : Mr.M.Karunanithi
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking a direction to the impugned summon in case No. 22 of 2025 passed by the first respondent, dated 20.03.2025.

2.The learned Counsel for the petitioner would submit that on 22.03.2025, the second respondent served summons from the first respondent, dated 22.03.2025 for appearance on 25.03.2025 at 11.00 a.m for taking precautionary action against the petitioner. If the proceedings initiated under Section 126 of BNSS, show cause notice under Section 130 of BNSS should be issued by the Executive Magistrate, but in the impugned summon no provision has been mentioned and no substance of the information is also mentioned. There is no subjective satisfaction mentioned by the first respondent. Therefore, without any application of mind, the summon has been issued. Hence, the impugned summons is liable to be quashed.



Crl.O.P(MD)No.6287 of 2025

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3.The learned Government Advocate (Crl.Side) appearing for the respondents would submit that the second respondent requested the first respondent to take action under Section 126 of BNSS and based on the same, the first respondent issued the summons for the appearance of the petitioner on 25.03.2025 at about 11.00 am. The petitioner, without responding to the summons, filed this petition. In the summons, they have not stated anything about the substance of the information. However, they will issue a fresh summons if necessary by following all the procedures.

4.Heard both sides and perused the records.

5.On perusal of the summons, it reveals that it was issued under Section 130 BNSS. As per Section 130 of BNSS, when a Magistrate, acting under Sections 126 to 129 of BNSS, deems it necessary to require any person to show cause, he shall make a order in writing, setting forth the substance of information received, the amount of the bond to be executed, the term for which it has to be in force and the number of sureties, after considering the sufficiency and fitness of the sureties. But



Crl.O.P(MD)No.6287 of 2025

in this case, no any substance of information was received and the amount of bond to be executed, the term for which, it has to be in force and the number of sureties and after consideration of number of witnesses, have not been mentioned.

6.According to the judgment of this Court in Krishnamoorthi Vs. The Executive Magistrate and others, the substance of the information and other requirements under Section 130 of BNSS are mandatory. But in the impugned summons no any mandatory procedures were followed by the first respondent. Therefore, the impugned summons is liable to be quashed.

7.Accordingly, the impugned summons is quashed and this criminal original petition is allowed with liberty to the first respondent to issue a fresh summons if requires. Consequently, connected miscellaneous petition is closed.

04.04.2025

Internet:Yes
Index :Yes/No
NCC :Yes/No
LR

4/6



Crl.O.P(MD)No.6287 of 2025

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2. The Inspector of Police,
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3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P(MD)No.6287 of 2025

P. DHANABAL, J.

LR

Crl.O.P(MD)No.6287 of 2025

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