



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.10.2024 & 30.10.2024

Pronounced on : 03.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024
and
Crl.M.P.(MD)Nos.9519, 8098, 8676, 9137, 9514, 9515, 9520, 9584, 9796, 9801, 10784, 10864, 10919, 10920, 10938, 11026 and 11635 of 2024

Crl.R.C.(MD)No.864 of 2024

Dhinesh

... Petitioner

Vs.

1.The II Class Executive Magistrate and
Tahsildar,
Thiruvadanai,
Ramanathapuram District.

2.The Sub Inspector of Police,
Thondi Police Station,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Revision Petition filed under Sections 438 and 442



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

BNSS, to call for records relating to the proceedings in M.C.No.57/2024 dated 16.08.2024 on the file of the first respondent and quash the same.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.13186 of 2024

Janarthanan

... Petitioner

Vs.

1.The II Class Executive Magistrate cum
Thasildar,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
G-4, Nainarkovil Police Station,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for records relating to the summon in M.C.No.70/2024 passed by the first respondent dated 13.03.2024 and quash the same and allow this petition.

For Petitioner : Mr.P.Praveenkumar

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

Crl.O.P.(MD)No.14018 of 2024

Shanmuganathan

... Petitioner

Vs.

1.The Second Class Executive Magistrate and
Tahsildar,
Office of Tahsildar,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram Taluk & District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records relating to the impugned summon in M.C.No.376/4607 of 2024 dated 08.08.2024 issued by the first respondent and quash the same as illegal, improper, unlawful and arbitrary.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.14638 of 2024

Prabhakaran

... Petitioner

Vs.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

1.The Second Class Executive Magistrate and

Tahsildar,
Office of Tahsildar,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Nainarkovil Police Station,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records relating to the impugned summon in M.C.No.251 of 2024 dated 09.08.2024 issued by the first respondent and quash the same.

For Petitioner : Mr.B.Rama Moorthi

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.15206 of 2024

Ravichandran

... Petitioner

Vs.

1.The II Class Executive Magistrate cum
Thasildar,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

... Respondents



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for records relating to the summon in M.C.No.(A3)/429/5366 of 2024 passed by the first respondent dated 28.08.2024 and quash the same and allow this petition.

For Petitioner : Mr.C.Susikumar

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.15209 of 2024

Hariharan

... Petitioner

Vs.

1.The Second Class Executive Magistrate and
Tashildar,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Sathirakudi Police Station,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the entire records of the proceedings initiated by first respondent in M.C.No.264 of 2024 dated 21.08.2024 and quash the said proceedings as against the petitioner.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.15222 of 2024

Asokan @ Ashokumar

... Petitioner

Vs.

1.The Executive Magistrate cum
Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

2.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(LIR No.33 of 2024)

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records on the file of the first respondent pertinent to his impugned notice in Case No.AA3/MC/110/2024 dated 03.09.2024 and to quash the same as against the petitioner.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

Crl.O.P.(MD)No.15297 of 2024

Nallu @ Lalluprasath

... Petitioner

Vs.

1.The Second Class Executive Magistrate and
Tashildar,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Sathirakudi Police Station,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the entire records of the proceedings initiated by first respondent in M.C.No.268 of 2024 dated 21.08.2024 and quash the said proceedings as against the petitioner.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.15625 of 2024

Mayandi

... Petitioner

Vs.

1.The Executive Magistrate cum
Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

2.The Inspector of Police,
Morrapanadu Police Station,
Thoothukudi District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records of impugned show cause notice issued by the first respondent vide A1/BNSS.129/209/2024 dated 19.08.2024 and quash the same as illegal, arbitrary and non-application of mind.

For Petitioner : Mr.V.Angusamy

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.17246 of 2024

Jeeva

... Petitioner

Vs.

1.The Second Class Executive Magistrate/Tahsildhar,
O/o.Second Class Executive Magistrate/Thasildhar,
Rameshwaram Taluk,
Ramanathapuram.

2.The Inspector of Police,
Pamban Police Station,
Rameshwaram,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records in connection with the impugned proceedings in



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

M.C.No.55/2024 (A4/3232/2024) dated 25.09.2024 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.K.Navaneetharaja

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.17472 of 2024

Rajendran

... Petitioner

Vs.

1.The Executive Magistrate/Revenue Tahsildar,
Thirupathur,
Sivagangai District.

2.The Inspector of Police,
Thirupathur Town Police Station,
Sivagangai District.

3.Senthilkumar

4.Chandran

5.Karthi

6.Sundari

7.Kisore Kumar

8.Madhubalan



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

9.Senthilnathan

10.Kodeeswaran

11.Muthukumar

12.Ananthi

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records pertaining to the impugned summon issued by the first respondent herein in his proceedings in M.C.No.3/2024 dated 19.09.2024 and quash the same in so far as above petitioner is concerned.

For Petitioner : Mr.G.Hari Haran

For R1 & R2 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.17514 of 2024

Samraj

... Petitioner

Vs.

1.The Second Class Executive Magistrate/
The Revenue Tahsildar,
Sankarankovil Taluk Office,
Tenkasi District.

2.The Inspector of Police,
Sankarankovil Taluk Police Station,
Tenkasi District.

... Respondents



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records pursuant to the impugned summon passed by the first respondent in M.C.No.A1/588/2024 under Section 107 r/w 111 Cr.P.C. dated 18.09.2024 and quash the same.

For Petitioner : Mr.P.Veerapandi

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.17535 of 2024

Ravichandran

... Petitioner

Vs.

1.The Executive Magistrate/
The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

2.The Inspector of Police,
Kallal Police Station,
Sivagangai District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for records relating to the impugned notice dated 01.04.2024 in M.C.No.22 of 2024 issued by the first respondent and quash the same as illegal.

For Petitioner : Mr.A.Mohan

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

Crl.O.P.(MD)No.17856 of 2024

Prasath

... Petitioner

Vs.

1.The Second Class Executive Magistrate and
Tashildar,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Bogalur Police Station,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the entire records of the proceedings initiated by first respondent in M.C.No.265 of 2024 dated 21.08.2024 and quash the said proceedings as against the petitioner.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

Crl.O.P.(MD)No.18760 of 2024

Fatinson

... Petitioner

Vs.

1.The Second Class Executive Magistrate cum
Tahshildar,
Ramanathapuram District,
Ramanathapuram.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

2.The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 BNSS, to call for the records related to the impugned summon in M.C.No. (A3)480/6262/2024 dated not mentioned of October 2024 (.10.2024) issued by the first respondent and quash the same as illegal.

For Petitioner : Mr.R.Babu Jaganath

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

COMMON ORDER

Crl.R.C.(MD)No.864 of 2024 - This Criminal Revision Petition is directed against the proceedings in M.C.No.57 of 2024 dated 16.08.2024 on the file of the first respondent under Sections 136 BNSS r/w 129 BNSS, consequent to the requisition made in LIR No.32 of 2024 dated 06.08.2024 by the second respondent for initiating action under Section 129 BNSS.

2. Crl.O.P.(MD)No.13186 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.70 of 2024 dated



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

13.03.2024 on the file of the first respondent, consequent to the requisition made in LIR No.15 of 2024 dated 03.03.2024 by the second respondent for initiating action under Section 110 CrPC.

3. Crl.O.P.(MD)No.14018 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.(A3)376/4607/2024 dated 08.08.2024 on the file of the first respondent, consequent to the letter dated 08.08.2024 sent by the second respondent for initiating action under Section 129 BNSS.

4. Crl.O.P.(MD)No.14638 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.251 of 2024 dated 09.08.2024 on the file of the first respondent, consequent to the requisition made in LIR No.53 of 2024 dated 28.06.2024 by the second respondent for initiating action under Section 129 BNSS.

5. Crl.O.P.(MD)No.15206 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.(A3)429/5366/2024 dated 28.08.2024 on the file of the first respondent, consequent to the



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

letter dated 27.08.2024 sent by the second respondent for initiating action under Section 129 BNSS.

6. Crl.O.P.(MD)No.15209 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.264 of 2024 dated 21.08.2024 on the file of the first respondent, consequent to the requisition made in LIR No.12 of 2024 dated 13.08.2024 by the second respondent for initiating action under Section 129 BNSS.

7. Crl.O.P.(MD)No.15222 of 2024 - This Criminal Original Petition is directed against the summons issued in Case No.A3/MC/110/2024 dated 03.09.2024 on the file of the first respondent, consequent to the requisition made in LIR No.33 of 2024 by the second respondent for initiating action under Section 129 BNSS.

8. Crl.O.P.(MD)No.15297 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.268 of 2024 dated 21.08.2024 on the file of the first respondent, consequent to the requisition made in LIR No.16 of 2024 dated 13.08.2024 by the second respondent



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

for initiating action under Section 129 BNSS.

WEB COPY

9. Crl.O.P.(MD)No.15625 of 2024 - This Criminal Original Petition is directed against the show cause notice issued in A1/BNSS.129/209/2024 dated 19.08.2024 on the file of the first respondent for initiating action under Section 129 BNSS.

10. Crl.O.P.(MD)No.17246 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.55 of 2024 dated 25.09.2024 on the file of the first respondent, consequent to the requisition made in LIR No.21 of 2024 by the second respondent for initiating action under Section 128 BNSS.

11. Crl.O.P.(MD)No.17472 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.03 of 2024 dated 19.09.2024 on the file of the first respondent, consequent to the letter sent by the second respondent for initiating action under Section 126 BNSS.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

12. Crl.O.P.(MD)No.17514 of 2024 - This Criminal Original Petition is directed against the enquiry notice issued in M.C.No.A1/558/2024 dated 18.09.2024 on the file of the first respondent, consequent to the requisition made in LIR No.17 of 2024 dated 01.04.2024 by the second respondent for initiating action under Section 107 CrPC.

13. Crl.O.P.(MD)No.17535 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.22 of 2024 dated 01.04.2024 on the file of the first respondent, consequent to the letter sent by the second respondent for initiating action under Section 117 CrPC.

14. Crl.O.P.(MD)No.17856 of 2024 - This Criminal Original Petition is directed against the summons issued in M.C.No.265 of 2024 dated 21.08.2024 on the file of the first respondent, consequent to the requisition made in LIR No.13 of 2024 dated 13.08.2024 by the second respondent for initiating action under Section 129 BNSS.

15. Crl.O.P.(MD)No.18760 of 2024 - This Criminal Original



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

Petition is directed against the summons issued in M.C.No.(A3)480/6262/2024 dated 07.10.2024 on the file of the first respondent, consequent to the letter dated .10.2024 sent by the second respondent for initiating action under Section 129 BNSS.

16. Chapter VIII of the Code of Criminal Procedure covers Sections 106 to 124 CrPC (Chapter IX of the Bharatiya Nagarik Suraksha Sanhita - Sections 125 to 143 BNSS), which deal with security for keeping the peace and for good behaviour. Section 125 BNSS (106 CrPC) applies to convicted offenders, who are a danger to the public. Section 126 BNSS (107 CrPC) applies to cases other than those covered by Section 125 BNSS (106 CrPC) and is for taking security to keep the peace. Section 127 BNSS (108 CrPC) applies to persons who spread seditious matters and whereas, Section 128 BNSS (109 CrPC) applies to suspected persons. Section 129 BNSS (110 CrPC) applies to habitual offenders. Sections 130 to 143 BNSS (111 to 124 CrPC) set out the procedures to be followed in the above cases.

17. The gist of the above Chapter is the prevention of crimes and



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

disturbances that might breach public peace and that these provisions are not for the acts that are done openly but regarding an act that has the potential to cause danger to the peace of society.

18. Section 126 BNSS which corresponds to Section 107 CrPC contemplates that when an Executive Magistrate gets information from a trustable source about a person who is suspected to breach the peace of the public, disturbing public tranquility, causing danger to public harmony, or committing any sort of wrongful act, then on sufficient ground and evidence, the Magistrate can call upon that person and then he would be asked the reasons of why he should not be compelled to agree with the bond (with or without surety) for maintaining peace for a required period of time of not more than a year, but for a time period said by the Magistrate as he thinks fit for the current prevailing situation in his jurisdiction.

19. Section 126(2) BNSS (107(2) CrPC) states that the proceedings for such person can be taken before any Executive Magistrate who has jurisdiction over the place where the breach of peace or disturbance is



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

likely to occur or the person who is accused of committing a wrongful act of causing the breach of peace, disturbing public tranquility falls under his jurisdiction.

20. It is pertinent to note that before taking any action against the accused person, the Magistrate shall be satisfied that there are appropriate and important reasons for taking action against that person before he breaches the peace and the Magistrate shall record reasons for his satisfaction.

21. The Hon'ble Supreme Court in *Istkar Vs. The State of Uttar Pradesh and another* reported in *2022 LiveLaw (SC) 1000*, while considering the scope and nature of Section 107 CrPC, has observed that Section 107 CrPC aims at ensuring that there be no breach of peace and the public tranquility be not disturbed by any wrongful or illegal act and the action being preventive in nature is not based on any overt act but is intended to forestall the potential danger to serve the interests of public at large and the relevant passages are extracted hereunder:-

“11. As noticed, the scope and nature of Section 107



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024



WEB COPY

CrPC is preventive and not punitive. It aims at ensuring that there be no breach of peace and that the public tranquillity be not disturbed by any wrongful or illegal act. The action being preventive in nature is not based on any overt act but is intended to forestall the potential danger to serve the interests of public at large. In other words, this provision is in aid of orderly society and seeks to avert any conduct subversive of the peace and public tranquillity. The provision authorises the Magistrate to initiate proceedings against a person if upon information, he is satisfied that such person is either likely to commit breach of peace or disturb public tranquillity or is likely to commit any wrongful act that might probably produce the same result. Simply stated, the provisions of Chapter VIII of the Code are merely preventive in nature and are not to be used as a vehicle for punishment.

12. Moreover, the object of furnishing security and/or executing a bond under Chapter VIII of the Code is not to augment the state exchequer but to avoid any possible breach of peace for maintaining public peace and tranquillity. It is also explicitly stipulated under Proviso (b) to Section 117 that the amount of bond shall be fixed with due regard to the circumstances of the case and shall not be excessive. ...”



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

22. It is also necessary to refer the judgment of the Division Bench of this Court in ***M.Krishnamurthy Vs. The Sub Divisional Magistrate cum Revenue Divisional Officer, Krishnagiri and another*** reported in ***(2017) 1 CTC 680*** and the relevant passage is extracted hereunder:-

*“19. In our view, a show cause order under Section 107 r/w 111 can be subjected to judicial review under Section 482 Cr.P.C. or Article 226 of the Constitution of India, if on the face of it, the order does not satisfy the minimum requirements of Section 111 or that the same has been passed by a person who is not an Executive Magistrate and not otherwise. In other words, if the order does not contain the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required, only then, can the High Court interfere and not otherwise. Factual adjudication of the satisfaction expressed by the Magistrate is ruled out in view of the decision of the Supreme Court in *Vicco Laboratories (supra)*.”*

23. No doubt, the Division Bench, while answering the reference, has taken a stand that the truth of the information can be tested only in the enquiry under Section 116 and is not required to be noted in the show



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

cause issued under Section 107 CrPC.

WEB COPY

24. Before proceeding further, it is necessary to refer Section 129 BNSS (110 CrPC);

“129. When an Executive Magistrate receives information that there is within his local jurisdiction a person who—

(a) is by habit a robber, house-breaker, thief, or forger; or

(b) is by habit a receiver of stolen property knowing the same to have been stolen; or

(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; or

(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter X of the Bharatiya Nyaya Sanhita, 2023, or under section 178, section 179, section 180 or section 181 of that Sanhita; or

(e) habitually commits, or attempts to commit, or abets the commission of, offences, involving a breach of the peace; or

(f) habitually commits, or attempts to commit,



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024



WEB COPY

or abets the commission of—

(i) any offence under one or more of the following Acts, namely:—

(a) the Drugs and Cosmetics Act, 1940;

(b) the Foreigners Act, 1946;

(c) the Employees' Provident Fund and Miscellaneous Provisions Act, 1952;

(d) the Essential Commodities Act, 1955;

(e) the Protection of Civil Rights Act, 1955;

(f) the Customs Act, 1962;

(g) the Food Safety and Standards Act, 2006; or

(ii) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption; or

(g) is so desperate and dangerous as to render his being at large without security hazardous to the community, such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bail bond, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.”

25. Section 130 BNSS corresponding to Section 111 CrPC reads:-

“130. When a Magistrate acting under section 126,



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

section 127, section 128 or section 129, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the sufficiency and fitness of sureties.”

26. It is pertinent to note that Section 111 CrPC is in *pari materia* with Section 112 of the 1898 Code. A Full Bench of this Court in ***In re : Muthuswami Chettiar and others*** reported in (1940) 1 MLJ 11, while considering the scope of the then Section 112 CrPC (111 CrPC) has held as follows:-

"11. There is no doubt that action taken under Section 112 constitutes a judicial act and therefore the Magistrate should not act arbitrarily. There must be information of a nature which convinces him that there is a likelihood of a breach of the peace. It is impossible to formulate a hard and fast rule with regard to the nature of the information on which a Magistrate should act. What is reasonably sufficient to satisfy a Magistrate must depend on the particular situation. The person who gives the information may not be in a position to give details, but



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

the source of the information may be sufficient to convince the Magistrate that a breach of the peace is likely, and if he is convinced the law requires him to take action. We consider that Knox, J., aptly stated the position in Jaguji Rai v. Emperor (1918) 16 A.L.J. 567, when he said:

As I read this section, there may be cases in which a Magistrate of the first class is merely informed that a person is likely to disturb the public tranquillity without any information being given as to his intent to do wrongful acts. The Magistrate is responsible for the peace of the district. He acts upon this information and he is required to set forth in writing the substance of the information received. In this case we are not told that the Magistrate has received any information of definite acts intended. Apparently from the information he received he was satisfied that the persons concerning whom the information had been given were likely to commit some act which might occasion a breach of the peace. The reason given for this probability was that they were on terms of enmity with each other. Where the Magistrate can go into further particulars, he should certainly go into them. But it may well be that all the information he receives is that there will be a breach of the public peace, and if he considers that information to come from a



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

reliable source, he has jurisdiction to make the order required by Section 112.

12. The High Court has undoubtedly power to quash proceedings where the notice issued does not comply with the requirements of Section 112, but before doing so it must be satisfied that there has been a failure to comply. It must be remembered that the issue of the notice is merely a preliminary step and no order can be passed under Section 107 unless the inquiry which follows the issue of the notice shows that the laying of the information was justified. The High Court can always interfere when the inquiry has not been held in accordance with the law or a wrong conclusion has been arrived at. Far too much stress has been laid in the past on the wording of the notice and too little regard paid to the safeguards provided by the subsequent procedure."

27. It is pertinent to note that an order under Section 130 BNSS (111 CrPC) is nothing but a show cause notice calling upon the persons stated therein to show cause as to why they should not be bound over. No doubt, an order under Section 130 BNSS (111 CrPC) is only an interlocutory order, because it does not determine the rights of the parties itself and only



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

it is calls upon the party to show cause against proposed action.

28. As already pointed out, the Division Bench has specifically held that show cause order under Section 107 r/w 111 can be challenged under Section 482 CrPC or Article 226 of the Constitution of India, if on the face of it, the order does not satisfy the minimum requirements of Section 111 or that the same has been passed by a person, who is not an Executive Magistrate and not otherwise.

29. Considering the above, it is very much clear that the order of the Executive Magistrate must contain the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number, character and class of sureties (if any required) and that if the order does not disclose any such material aspects, the High Court can very well interfere with that order.

30. The Hon'ble Supreme Court in *Madhu Limaye Vs. Sub Divisional Magistrate, Monghyr and others* reported in *AIR 1971 SC 2486*, has explained the words “substance of the amount received” and the



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

same is extracted hereunder:-

“ ... Since the person to be proceeded against has to show cause, it is but natural that he must know the grounds for apprehending a breach of the peace or disturbance of the public tranquillity at his hands. Although the section speaks of the 'substance of the information' it does not mean that the order should not be full. It may not repeat the information bodily but it must give proper notice of what has moved the Magistrate to take the action. This order is the foundation of the jurisdiction and the word 'substance' means the essence of the most important parts of the information.”

31. Bearing the above legal position in mind, let us proceed with the cases on hand. In the revision in Crl.R.C.(MD)No.864 of 2024, the Executive Magistrate in his impugned order has alleged that after issuance of show cause notice, the petitioner herein was produced before him and conducted enquiry and thereafter he has come to a conclusion that the petitioner herein is likely to create breach of peace in the locality and hence, he was directed to execute a bond for Rs.50,000/- without sureties for a period of one year from 16.08.2024. According to the prosecution, before passing the impugned order, the Executive Magistrate has issued a



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

show cause notice dated 06.08.2024 to show cause why he should not be directed to execute a bond for Rs.50,000/- for keeping peace and after the appearance of the petitioner, proper enquiry was conducted and thereafter, the impugned order came to be passed. The learned Additional Public Prosecutor would fairly submit that though the petitioner is having two cases, the same were not at all disclosed either in the show cause notice or in the impugned order. More importantly, two cases pending against the petitioner were for the offence under the Tamil Nadu Prohibition Act and as rightly contended by the learned counsel appearing for the petitioner and as rightly conceded by the learned Additional Public Prosecutor, the offences under the Tamil Nadu Prohibition Act are not covered under Section 129 BNSS (110 CrPC). No doubt, though the impugned order contains the amount of bond to be executed, term for which it is to be in force, the same does not contain the substance of the information received. As already pointed out, neither the show cause notice nor the impugned order does contain any of the cases pending against the petitioner or the substance of the information received from the second respondent. Considering the above and the legal position above referred, this Court has no hesitation to hold that the impugned order cannot legally be sustained



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

and the same is liable to be set aside.

32. In Crl.O.P.(MD)Nos.15222, 17246 and 17535 of 2024, the Executive Magistrate has issued the impugned summons to show cause why they should not be directed to execute a bond for Rs.50,000/-, directing them to appear on a particular date shown therein and in Crl.O.P. (MD)No.17472 of 2024, summons came to be issued to show cause why the petitioner herein should not be directed to execute a bond for Rs.5,000/- and to appear on 24.09.2024 at 11.30 a.m. In all the other Criminal Original Petitions, the impugned summons does not contain the amount of bond to be executed and the term for which it is to be in force and number and character of sureties if any required.

33. In Crl.O.P.(MD)No.13186 of 2024, the learned Additional Public Prosecutor would submit that there were four previous cases pending against the petitioner herein but the impugned summons does not refer the same. In Crl.O.P.(MD)No.14018 of 2024, according to the prosecution, there were four previous cases pending against the petitioner herein but the impugned summons does not disclose about the same. In



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

Crl.O.P.(MD)Nos.15206, 15209, 15625, 17514 and 17856 of 2024, the learned Additional Public Prosecutor would submit that the petitioners herein were having five cases, three cases, two cases, eight cases and three cases respectively but the impugned summons does not disclose about the case particulars.

34. The learned Additional Public Prosecutor would also admit that in Crl.O.P.(MD)Nos.14638, 15222, 15297, 17246, 17472, 17535 and 18760 of 2024, the impugned summons / show cause notices does not contain any of the required particulars.

35. In Crl.O.P.(MD)No.15222 of 2024, the learned counsel appearing for the petitioner would submit that the Executive Magistrate has earlier initiated proceedings under Section 110 CrPC and when the same was challenged before this Court in Crl.O.P.(MD)No.3462 of 2023, this Court has passed an order dated 25.07.2023 quashing the impugned proceedings. The learned Additional Public Prosecutor would submit that the petitioner herein is having two cases one for sand theft and other for murder but the impugned summons does not disclose any of the case



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

particulars nor the earlier proceedings.

36. As rightly contended by the learned counsel appearing for the petitioners, in some of the cases, before issuance of the impugned summons under Section 129 BNSS (110 CrPC), no orders under Section 127 BNSS (108 CrPC) came to be passed and no orders under Section 127 BNSS (108 CrPC) came to be served on the petitioners along with the impugned summons.

37. The learned counsel appearing for the petitioners would further submit that in some of the cases before issuing the summons under Section 126 BNSS (107 CrPC), no orders under Section 130 BNSS (111 CrPC) came to be issued.

38. It is pertinent to note that in case if the person for whom notice under Section 126 BNSS (107 CrPC) is issued, has not turned up, the Executive Magistrate has to pass an order under Section 132 BNSS (113 CrPC) for issuance of summons or warrant.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

WEB COPY

39. As rightly contended by the learned counsel appearing for the petitioners, in some of the cases before initiating proceedings under Section 126 BNSS (107 CrPC), show cause orders under Section 130 BNSS (111 CrPC) were not issued. As rightly contended by the learned counsel appearing for the petitioners, in some of the cases, the first respondent, without issuing any show cause order under Section 130 BNSS (111 CrPC), has directly issued summons under Section 132 BNSS (113 CrPC).

40. Considering the above, this Court has no hesitation to hold that the Executive Magistrate has issued the impugned summons / show cause notices / orders in violation of the provisions of the Chapter IX BNSS (Chapter VIII CrPC) and as such, the same are legally unsustainable. Consequently, this Court concludes that the impugned summons / show cause notices / orders are liable to be set aside and are set aside accordingly.

41. In the result, the Criminal Revision Petition and the Criminal Original Petitions are allowed. Consequently, connected Miscellaneous



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

Petitions are closed. No costs.

03.01.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

- 1.The II Class Executive Magistrate and
Tahsildar,
Thiruvadanai,
Ramanathapuram District.
- 2.The Sub Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
- 3.The II Class Executive Magistrate cum
Thasildar,
Paramakudi,
Ramanathapuram District.
- 4.The Inspector of Police,
G-4, Nainarkovil Police Station,
Ramanathapuram District.
- 5.The Second Class Executive Magistrate and
Tahsildar,
Office of Tahsildar,
Ramanathapuram,
Ramanathapuram District.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

- 6.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram Taluk & District.
- 7.The Inspector of Police,
Sathirakudi Police Station,
Ramanathapuram District.
- 8.The Executive Magistrate cum
Tahsildar,
Vilavancode Taluk,
Kanyakumari District.
- 9.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
- 10.The Executive Magistrate cum
Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.
- 11.The Inspector of Police,
Morrapanadu Police Station,
Thoothukudi District.
- 12.The Second Class Executive Magistrate/Tahsildhar,
O/o.Second Class Executive Magistrate/Thasildhar,
Rameshwaram Taluk,
Ramanathapuram.
- 13.The Inspector of Police,
Pamban Police Station,
Rameshwaram,
Ramanathapuram District.
- 14.The Executive Magistrate/Revenue Tahsildar,
Thirupathur, Sivagangai District.



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535, 17856 and 18760 of 2024

- 15.The Inspector of Police,
Thirupathur Town Police Station,
Sivagangai District.
- 16.The Second Class Executive Magistrate/
The Revenue Tahsildar,
Sankarankovil Taluk Office,
Tenkasi District.
- 17.The Inspector of Police,
Sankarankovil Taluk Police Station,
Tenkasi District.
- 18.The Executive Magistrate/
The Tahsildar,
Karaikudi Taluk,
Sivagangai District.
- 19.The Inspector of Police,
Kallal Police Station,
Sivagangai District.
- 20.The Inspector of Police,
Bogalur Police Station,
Ramanathapuram District.
- 21.The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.



WEB COPY



Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018, 14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472, 17514, 17535,17856 and 18760 of 2024

K.MURALI SHANKAR,J.

csn

Pre-Delivery Common Order made in
Crl.R.C.(MD)No.864 of 2024, Crl.O.P.(MD)Nos.13186, 14018,
14638, 15206, 15209, 15222, 15297, 15625, 17246, 17472,
17514, 17535,17856 and 18760 of 2024

Dated : 03.01.2025