



Crl.OP(MD)No.14798 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.OP(MD)No.14798 of 2025 &
CrI.M.P.(MD)No.12008 of 2025

A.Maliga

... Petitioner

Vs.

The State of Tamilnadu,
Rep. by its.,
1.The District Superintendent of Police,
District Superintendent of Police Office,
Surveyor Colony,
Madurai District.

2.The Inspector of Police,
District Crime Branch,
Madurai District.

3.R.Shanmugasundaram

... Respondents

PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to call for the records and quash the summon as against the petitioner in G5/E.11307578/2738/2025, dated 29.08.2025 issued by the second respondent under Section 94 r/w Section 35(3) of BNSS and quash the same as illegal and arbitrary by considering the representation of the petitioner dated 01.09.2025.



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For Petitioner : Mr.B.Arun
For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Crl. Side)
for R1 and R2
Mr.G.Manikandan for R3

ORDER

This petition is filed to quash the summon issued against the petitioner under Section 94 r/w 35(3) of BNSS, 2023.

2. The learned counsel appearing for the petitioner would submit that admittedly, no FIR has been registered against the petitioner and hence, the provisions of Section 94 r/w 35(3) of BNSS cannot be invoked by the second respondent. In support of his contention, he relied upon the Judgement of this Court in the case of **Preetham vs. Deputy Superintendent of Police and another** reported in **2021 SCC OnLine Mad 6317**.

3. The learned Government Advocate (Crl. Side) appearing for R1 and R2 would submit that the second respondent is conducting preliminary enquiry on the complaint given by the third respondent to ascertain whether cognizable offence is made out or not.

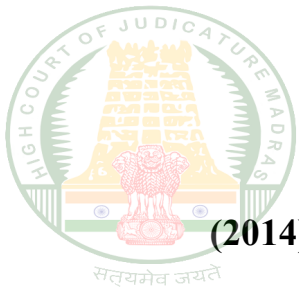


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4. The learned counsel appearing for the third respondent / defacto complainant would submit that the complaint discloses cognizable offence.

5. Section 35(3) of BNSS corresponds to Section 41A of Cr.P.C. It is not known how the said provision can be invoked by the second respondent at this stage of summoning the petitioner. There is a total non-application of mind on the part of the second respondent in invoking Section 35(3) of BNSS. Section 94 of BNSS corresponding to Section 91 of Cr.P.C. also cannot be invoked unless, the second respondent is conducting the investigation under Chapter XII of Cr.P.C. which corresponds to Chapter XIII of BNSS.

6. In view of the above discussions, the impugned summon in G5/E.11307578/2738/2025, dated 29.08.2025, issued by the second respondent is quashed. The second respondent shall conduct the enquiry on the complainant of the third respondent / defacto complainant as per the guidelines laid down by the Apex Court in the case of **Lalita Kumari vs. Government of Uttar Pradesh and others** reported in



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(2014) 2 SCC 1 and conclude the same within a period of one week from today. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous Petition is closed.

09.09.2025

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

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To

1.The District Superintendent of Police,
District Superintendent of Police Office,
Surveyor Colony,
Madurai District.

2.The Inspector of Police,
District Crime Branch,
Madurai District.

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



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SUNDER MOHAN, J.

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