



Crl.O.P.(MD)No.16384 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.16384 of 2025

and

Crl.M.P(MD)No.13366 of 2025

K.Suresh

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by,
The Inspector of Police,
Amathur Police Station,
Viruthunagar District.

2.Second Class Executive Magistrate-cum-The Tahsildar,
O/o.The Tahsildhar,
Collectorate, Viruthunagar,
Viruthunagar District.

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the proceedings in M.C./131/2025 (129(e) BNSS) dated 11.09.2025 on the file of the second respondent herein and quash the same as illegal.

For Petitioner : Mr.P.Subbiah

For Respondents : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

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The petitioner seeks to quash the impugned notice issued by the second respondent under Section 129(e) of BNSS.

2. In the impugned notice, the second respondent had referred to five cases pending against the petitioner to arrive at the subjective satisfaction that the petitioner habitually commits offences involving breach of peace and therefore, the petitioner is required to show cause as to why he should not execute a bond for good behaviour.

3. The learned counsel for the petitioner would submit that the impugned notice suffers from non-application of mind; that in the cases referred to by the second respondent, the crime number has not been mentioned except for one case, where, the crime number referred is 42/2024 for the offences under Section 294(b), 307, 323, 324, 326 and 506(2) of IPC; and that in the absence of the crime number, subjective satisfaction that the petitioner is a habitual offender is vitiated; and that therefore, the impugned notice is liable to be set aside.



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4. Heard the learned Government Advocate (Crl. Side) appearing for the respondents, who was unable to refer to any crime number. He would however submit that there are five cases pending against the petitioner; and that merely because the crime numbers of certain cases registered against the petitioner have not been stated, the subjective satisfaction of the second respondent cannot be faulted.

5. The impugned notice, as stated earlier, is issued under Section 129(e) of BNSS. While arriving at the subjective satisfaction, the second respondent had made the following observations in the impugned notice:

“எதிர்மனுதாரராகிய தங்கள் மீது ஆமத்தூர் காவல் நிலைய
1)42/2024 294(b), 307, 323, 324, 506(2) IPC @ 294(b), 307,
323, 324, 326, 506(2) – IPC – NTF; 2) 323, 341, 506(1) IPC –
REFERRED; 3) 294(b), 307 – IPC – PT; 4)107-CRPC –
REFERRED; 5) 109, 147, 148, 294(b), 427, 435, 436, 448,
506(2) – IPC @ 109, 147, 148, 294(b), 427, 435, 436, 448,
506(2) – IPC – UI”

6. As rightly contended by the learned counsel for the petitioner, except for the first case, the crime number is not referred to in any of the other cases. Further, one case is stated as 'Referred' and the other case is said to have been filed under Section 107 of Cr.P.C, which is also stated as 'Referred'.



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7. In the light of the above facts, the subjective satisfaction by the second respondent that the petitioner is a habitual offender is vitiated by non-application of mind and hence, the impugned notice cannot be sustained. Accordingly, the impugned notice is set aside. However, if the second respondent is able to refer to the crime numbers of all the cases pending against the petitioner and arrive at the satisfaction that the petitioner is a habitual offender, the order passed in this petition would not stand in the way of the second respondent to issue a fresh notice.

8. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

14.10.2025

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

To

1.The Inspector of Police,
Amathur Police Station,
Viruthunagar District.

2.Second Class Executive Magistrate-cum-The Tahsildar,
O/o.The Tahsildhar,
Collectorate, Viruthunagar,
Viruthunagar District.



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

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SUNDER MOHAN, J.

Lm

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