



Crl.O.P.(MD) No.17072 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.17072 of 2025

and

Crl.M.P.(MD) No.13927 of 2025

K.Ramasubburoyal

... Petitioner

Vs.

1.The Sub-Divisional Magistrate cum
The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

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

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records pertaining to the impugned proceedings in A1/MC-27/25/TNPHW(7-C) on the file of the first respondent dated 10.09.2025 and quash the same as illegal.

For Petitioners : Mr.T.Thirumurugan

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



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ORDER

This Criminal Original Petition has been filed seeking to quash the impugned notice dated 10.09.2025, bearing reference No.A1/MC-27/25/TNPHW(7-C), issued by the first respondent under Section 129 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

2. By the impugned notice, the petitioner has been called upon to show cause as to why proceedings under Section 129 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, should not be initiated against him, on the ground that he is an accused in Crime No.289 of 2025, on the file of the second respondent police, registered for the offences punishable under Sections 191(2), 191(3), 296(b), 118(1), and 351(3) of the Bharatiya Nyaya Sanhita (BNS), 2023.

3. The learned counsel for the petitioner would submit that the first respondent has no jurisdiction to invoke Section 129 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as the act of the petitioner does not fall under any of the clauses in Section 129 of the said Act to empower the first respondent to issue the show cause notice under Section 129 of the



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said Act; and that there is a total non-application of mind in the impugned notice.

4. The learned Government Advocate (Criminal Side) would submit that, though in the impugned notice it has been stated that the petitioner was involved in only one case, the petitioner is an accused in several other cases.

5. This Court is of the view that the provisions under Section 129 of the BNSS, 2023 cannot be invoked merely on request. Since the petitioner was involved, even according to the respondents, in only one case, the provisions of Section 129 of the BNSS, 2023, which are intended to obtain security for good behaviour from habitual offenders, cannot be invoked.

6. Section 129 of BNSS, 2023 reads as follows:

“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



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(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 XII of the Bhartiya Nyaya Sanhita, 2023, or under section 176, section 177, section 178 or section 179 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, 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



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profiteering or of adulteration of food or drugs or of corruption, or

(g) is so desperate and dangerous 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 bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.”

Clauses (a) to (f) would suggest that the person from whom security for good behaviour is sought must have committed the offences habitually.

Clause (g) states that the person must be so desperate and dangerous that allowing him to remain at large without security would be hazardous to the community.

7. There is no such averment in the impugned notice. Therefore, this Court is of the view that the impugned notice is totally misconceived and cannot be sustained. Accordingly, the impugned notice dated 10.09.2025 is quashed. However, it is made clear that if the respondents have any other material to suggest that the petitioner falls within the definition of a 'habitual offender', they are at liberty to issue a fresh notice.



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8. In the result, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

- 1.The Sub-Divisional Magistrate cum Sub Collector,
Cheranmahadevi,
Tirunelveli District.
- 2.The Inspector of Police,
Ambasamuthiram Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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