



CRL OP(MD). No.19276 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 04/11/2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.19276 of 2025
and
CrI.M.P(MD) No.16124 of 2025

Rajkumar @ Kumuli Rajkumar

... Petitioner

Vs

1. The II Class Executive Magistrate Cum Tahsildar,
Tirunelveli.

2.State of Tamilnadu,
Rep by Inspector of Police,
Thatchanallur Police Station,
Tirunelveli District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records pertaining to the order of the first respondent
passed in A3/2383/2025 (BNSS 129) dated 10.10.2025 and set aside the
same.

For Petitioner : Mr.T.Leninkumar,
Advocate



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For Respondents : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the impugned notice issued by the first respondent under Section 129 of BNSS, 2023.

2. By the impugned notice, the petitioner was 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 except for mentioning a letter bearing Ref.No.LIR No.38 of 2025, the notice does not state as to why Section 129 of BNSS has to be invoked against the petitioner and therefore, the impugned notice is liable to be set aside.

4. The learned Government Advocate (Crl.Side) appearing for the respondents, would however submit that there are some cases pending against the petitioner; and that the non mentioning of the cases registered against the petitioner would not vitiate the subjective satisfaction of the



first respondent.

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5. The impugned notice, as stated earlier, is issued under Section 129 of BNSS, which 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

(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 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



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good behaviour is sought for, must have committed the offences habitually. Clause (g) states that the person must be so desperate and dangerous to render his being at large without security hazardous to the community. The impugned notice is bereft of necessary details as to why the petitioner has been construed as an habitual offender or why his being at large is hazardous to the community. Though it is submitted by the learned Government Advocate that there are two cases pending against the petitioner, there is no reference to the same in the impugned notice. Hence, the subjective satisfaction by the first respondent to invoke Section 129 of BNSS suffers from non-application of mind and therefore, the impugned notice is liable to be set aside.

6. Accordingly, the impugned notice dated 10.10.2025 is set aside. However, if the first respondent is satisfied that the petitioner has to be dealt with under Section 129 BNSS, he may initiate fresh action recording the reason for arriving at such satisfaction. The order passed in this petition would not stand in the way of the first respondent to initiate such action in future.



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7. Accordingly, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petitions are closed.

04.11.2025

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

1. The II Class Executive Magistrate Cum Tahsildar,
Tirunelveli.

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

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

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SUNDER MOHAN,J

CP

ORDER
IN
CRL OP(MD) No.19276 of 2025

Date : 04/11/2025