



Crl.O.P.(MD)No.22388 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2025

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.22388 of 2024

and

Crl.M.P(MD)No.13972 of 2024

Mahendran

.. Petitioner

Vs.

1. The Second Class Executive Magistrate Cum
Revenue Tahsildhar
Office of the II Class Executive Magistrate cum
Revenue Tahsildhar
Sankarankovil, Tenkasi District

2. The Inspector of Police
Karivalamvanthanallur Poice Station
Tenkasi District

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the entire records of the proceedings initiated by the first respondent in M.C.No.A1/558/2024 dated 22.11.2024 and quash the said proceedings as against the petitioner.

For Petitioner : Mr.D.Rajaboopathy

For Respondents : Mr.M.Karunanithi
Government Advocate(Crl.Side)



Crl.O.P.(MD)No.22388 of 2024

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the proceedings in M.C.No.A1/558/2024 dated 22.11.2024 on the file of the first respondent .

2. The learned counsel appearing for the petitioner would submit that the first respondent issued summons under Section 126 of BNSS by stating law and order situation because of the petitioner and why a proceedings under Section 126 of BNSS should not be initiated. As per the version of the first respondent there might be a law and order problem because of the petitioner and based on the request made by the second respondent they initiated proceedings in M.C.No.A1/558/2024 dated 22.11.2024 under Section 126 of BNSS. Further the summons issued should contain with regard to the substance of 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, whereas the preset summons has been issued under Section 126 of BNSS is without any information. Under such circumstances the summons issued by the first respondent is not in accordance with law and the same is liable to be quashed.



Crl.O.P.(MD)No.22388 of 2024

WEB COPY

3. The learned Government Advocate(Crl.Side) appearing for the respondent would submit that the petitioner herein abducted one Malarvizhi,D/o.Chelladurai and thereby created law and order issue, therefore the second respondent has sent a request to the first respondent and based on the same they initiated proceedings and they issued summons for executing bond under Section 126 of BNSS and there is no procedural violation in issuing the summons therefore the petition is liable to be dismissed.

4. Heard both sides and perused the materials available on record.

5. On perusal of the records it is seen that the first respondent issued summons dated 22.11.2024 to appear on 26.11.2024 as to why he shall execute a bond for one year. In such circumstances there is no mention about the substance of 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.



WEB COPY



Crl.O.P.(MD)No.22388 of 2024

6. Section 130 of BNSS reads as follows:

“130. Order to be made.

When a Magistrate acting under section 126, 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. ”.

7. Therefore in the said notice no any substance of information received to comply with the conditions as stated in Section 130 of BNSS. More over the summons was issued on 22.11.2024 but in the summons they have mentioned the provisions of Cr.P.C. Therefore it shows the non application of mind by the first respondent. Though the summons was issued for appearance on particular date on 26.11.2024 but the same was for executing bond for a period of one year, this Court can quash the summons. In view of the same the order passed by the first respondent is not in accordance with law and the same is liable to be quashed.



Crl.O.P.(MD)No.22388 of 2024

8. Accordingly the Criminal Original Petition stands allowed and the order passed by the first respondent in M.C.No.A1/558/2024 dated 22.11.2024 is hereby quashed. Consequently connected miscellaneous petition stands closed.

08.04.2025

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

To

1. The Second Class Executive Magistrate Cum
Revenue Tahsildhar
Office of the II Class Executive Magistrate cum
Revenue Tahsildhar
Sankarankovil, Tenkasi District
2. The Inspector of Police
Karivalamvanthanallur Poice Station
Tenkasi District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.22388 of 2024

P.DHANABAL,J.

aaV

Crl.O.P.(MD)No.22388 of 2024

08.04.2025