



Crl.O.P(MD)No.2183 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P(MD)No.2183 of 2026

and

Crl.M.P(MD)No.2456 of 2026

1.S.Chandrasekaran

2.Chandra Mohan

... Petitioners/"B" Party

Vs.

1.The Sub Divisional Magistrate cum

Sub Collector,

Cheranmahadevi,

Tirunelveli district.

... Respondent

2.The Sub Inspector of Police,

Radhapuram Police Station,

Tirunelveli District.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records of the impugned show cause notice in Na.Ka.A1/30/BNSS-126/2025 dt. 12.12.2025 issued by the 1st respondent and quash the same.

For Petitioner : Mr.R.J.Karthick



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

ORDER

Preface:

This Criminal Original Petition has been filed invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), seeking to quash the summons issued by the respondent Executive Magistrate initiating preventive proceedings under Section 107 Cr.P.C., 1973 / Section 126 BNSS, 2023.

Factual Matrix:

2. The petitioner is a resident within the jurisdiction of the respondent Executive Magistrate. On 12.12.2025., the respondent issued a summons calling upon the petitioner to appear in proceedings purportedly initiated under Section 107 Cr.P.C., 1973 / Section 126



BNSS on the allegation that the petitioner is likely to cause breach of peace. The summons does not disclose the substance of information received, the specific grounds for such satisfaction, or the material relied upon by the Executive Magistrate for initiating the preventive proceedings.

Case of the petitioner:

3. The learned counsel for the petitioner would submit that the impugned summons has been issued in a mechanical and routine manner, without recording the mandatory subjective satisfaction required under law. It is contended that no written order as contemplated under Section 111 Cr.P.C., 1973 / Section 127 BNSS has been passed or communicated to the petitioner, setting out the grounds, nature of information, or necessity for initiation of proceedings. The learned counsel would further submit that the impugned action results in unwarranted interference with the personal liberty of the petitioner and amounts to abuse of the preventive jurisdiction.



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Case of the respondent:

4. The learned Government Advocate (Criminal Side), appearing for the respondents, would submit that the proceedings are preventive in nature and intended to maintain public peace, and that the petitioner can raise objections before the Executive Magistrate.

5. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

6. The point that arises for consideration is whether the summons issued by the Executive Magistrate under Section 107 Cr.P.C., 1973 / Section 126 BNSS is vitiated for non-compliance with the mandatory statutory safeguards, warranting interference under Section 482 Cr.P.C., 1973 / Section 528 BNSS?



Analysis:

7. Proceedings under Section 107 Cr.P.C., 1973 / Section 126 BNSS, though preventive, have serious civil consequences and directly impinge upon the personal liberty of an individual. Therefore, strict compliance with the procedural safeguards prescribed under the statute is mandatory.

8. Section 111 Cr.P.C., 1973 / Section 127 BNSS obligates the Executive Magistrate to pass an order in writing setting forth the substance of the information received, the grounds for initiation of proceedings, and the particulars of the bond proposed to be executed. A mere issuance of summons, without disclosure of the foundational order or application of independent judicial mind, renders the initiation of proceedings legally unsustainable. Preventive jurisdiction cannot be exercised on vague apprehensions, omnibus allegations, or at the mere behest of the police. Such mechanical initiation of proceedings is antithetical to the constitutional guarantee under Article 21 of the Constitution of India.



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9. On a careful perusal of the impugned summons, this Court finds that the mandatory statutory requirements have not been complied with and that the proceedings suffer from inherent illegality. Preventive powers under Chapter VIII of the Code and the corresponding provisions of the Bharatiya Nagarik Suraksha Sanhita are extraordinary in nature and must be exercised with restraint, responsibility, and strict adherence to procedural safeguards, lest they degenerate into instruments of routine control.

10. This Court is of the considered view that the impugned summons issued under Section 107 Cr.P.C., 1973 / Section 126 BNSS is unsustainable in law and that the continuation of proceedings pursuant thereto would amount to abuse of process of law.

11. Accordingly, this Criminal Original Petition is allowed with the following directions:



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(i) The summons dated 12.12.2025 issued by the respondent Executive Magistrate under Section 107 Cr.P.C., 1973 / Section 126 BNSS is quashed.

(ii) All further proceedings pursuant to the impugned summons are also quashed.

(iii) This order shall not preclude the respondent authorities from initiating fresh proceedings, if circumstances so warrant, strictly in accordance with law and after scrupulous compliance with the statutory safeguards. Consequently, the connected Criminal Miscellaneous Petition is closed.

04.02.2026

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

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



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L.VICTORIA GOWRI, J.

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