



CrI.O.P.(MD)No.4205 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **26.02.2026**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

CrI.O.P.(MD)No.4205 of 2026
& CrI.M.P.(MD)Nos.4506 & 4508 of 2026

Sekar

... Petitioner

Vs.

1.The 2nd Class Executive Magistrate cum
Revenue Divisional Officer,
Thruvengadam, Tenkasi District.

2.The Inspector of Police,
Kuruvikulam Police Station,
(LIR No.45/2026)
Tenkasi District.

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to 107 of Cr.P.C., proceedings in A1/M.C.No.45/2026 dated 11.02.2026 initiated by the first respondent and quash the same as illegal.

For Petitioner : Mr.S.Baskar Mathuram

For Respondents : Mr.B.Thanga Aravindh

Government Advocate (CrI.Side)



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ORDER

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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 11.02.2026, the first respondent issued a summon calling upon the petitioner to appear in proceedings purportedly initiated under Section 111 Cr.P.C., 1973 on the allegation that the petitioner is likely to cause breach of peace. The summon 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 summon has been issued in a mechanical and routine manner, without



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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.

Case of the respondent:

4. The learned Government Advocate (Criminal Side), appearing for the respondent, 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



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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.

9. 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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10. 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.

11. 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.

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

(i) The summon dated 11.02.2024 issued by the first respondent Executive Magistrate under Section 107 Cr.P.C., 1973 / Section 126 BNSS is quashed.



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(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 Petitions are closed.

26.02.2026

NCC : Yes / No

Index : Yes / No

Rmk

TO:-

- 1.The 2nd Class Executive Magistrate cum
Revenue Divisional Officer,
Thruvengadam, Tenkasi District.
- 2.The Inspector of Police,
Kuruvikulam Police Station,
(LIR No.45/2026)
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Rmk

Order made in
CrI.O.P.(MD)No.4205 of 2026

Dated
26.02.2026