



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.06.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.5807 of 2026

and

Crl.M.P(MD)No.6295 of 2026

Neethidevan @ Jeganathan

...Petitioner

Vs

1. The Executive Magistrate of Second Class and Tahsildar,
Kadalaadi Taluk,
Ramanathapuram District.

2. The Deputy Superintendent Of Police,
Office of the Deputy Superintendent of Police,
Mudukulathur,
Ramanathapuram District.

3. State of Tamilnadu,
Rep by Sub Inspector of Police,
Ilanchembur Police Station,
Ramanathapuram

...Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records relating to the Summons issued under section 130 of BNSS in M.C.No.42 of 2026 dated 16.02.2026 on the file of the 1st respondent and quash the same as illegal.



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For Petitioner : M/s.O.R.Gokul Abimanyu

For Respondents : M/s.P.Samuel Gunasingh
Counsel for State of TN(crl.side)

* * * * *

ORDER

The present petition has been filed challenging the summons issued under Section 129 of BNSS.

2. According to the learned Counsel appearing for the petitioner, he is not having any previous cases at all. He further submits that in such circumstances, the petitioner can never be termed as a habitual offender. He also relies upon a decision of this Court in ***Crl.OP(MD)No.20725 of 2021, dated 11.01.2022, M.Thangamalai and 2 others, Vs. Sub Divisional Executive Magistrate cum Revenue Divisional Officer and another***, wherein this Court was pleased to hold that only when the person is declared as the habitual offender as contemplated under Section 2(4) of Tamil Nadu Restriction of Habitual Offenders Act, 1948, Section 129 can be invoked.

3. According to the learned Counsel appearing for the petitioner, when the petitioner is not having any previous adverse case or being convicted, the



question of invoking Section 129 of BNSS does not arise. Therefore, the summons issued without any jurisdiction.

4. I have considered the submissions made on either side and perused the materials available on record.

5. As rightly contended by the learned Counsel appearing for the petitioner, impugned summons do not disclose whether the petitioner has been declared as habitual offender as contemplated under the Tamil Nadu Restriction of Habitual Offenders Act, 1948 or not. In such circumstances, the impugned summons have been issued without jurisdiction and therefore, the same is liable to be quashed.

6. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

04.06.2026

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



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To

1. The Executive Magistrate of Second Class and Tahsildar,
Kadalaadi Taluk,
Ramanathapuram District.

2. The Deputy Superintendent Of Police,
Office of the Deputy Superintendent of Police,
Mudukulathur,
Ramanathapuram District.

3. The Sub Inspector of Police,
Ilanchembur Police Station,
Ramanathapuram

Copy to:-

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



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R.VIJAYAKUMAR, J.

RJR

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