



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.06.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.5982 of 2026

and

Crl.M.P(MD)No.6493 of 2026

Sethupathi

...Petitioner

Vs

1. The State of Tamilnadu,
Rep. by the Second Class Executive Magistrate
cum Tahsildar,
Ramanathapuram District,
Ramanathapuram

2. State of Tamilnadu,
Rep. by Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records related to the impugned summon in M.C.No. (A3)/66/621/2026, dated 11.03.2026 issued by the 1st respondent and quash the same as illegal.

For Petitioner : M/s.R.Babu Jeganath

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

* * * * *



WEB COPY

ORDER

The present petition has been filed seeking to quash the summons issued under Section 129 of BNSS.

2. According to the learned Counsel appearing for the petitioner, though he is an accused in two pending cases, he has not been convicted in any one of them. 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. I have considered the submissions made on either side and perused the materials available on record.

4. As rightly contended by the learned Counsel appearing for the petitioner, though he is an accused in two criminal cases, he has not been convicted in any one of them so far. Therefore, it is clear that the petitioner does



not fall within the definition of Habitual Offender under Section 2(4) of the Tamil Nadu Restriction of Habitual Offenders Act, 1948 and in such circumstances, issuance of summons invoking Section 129 of BNSS is clearly without jurisdiction. The impugned summons are liable to be quashed.

5. 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

To

1. The Second Class Executive Magistrate
cum Tahsildar,
Ramanathapuram District,
Ramanathapuram

2. The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

Copy to:-

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



WEB COPY



R.VIJAYAKUMAR, J.

RJR

CrI.OP.(MD)No.5982 of 2026

04.06.2026