



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.8277 of 2026

and

Crl.M.P(MD)No.8884 of 2026

Mohamed Anwar

...Petitioner

Vs

1. The State of Tamilnadu,
The Second Class Executive Magistrate and Tahsildar,
Office of the Second Class Executive Magistrate and Tahsildar,
Kalkulam Taluk,
Kanyakumari

2. State of Tamilnadu,
Rep by Inspector of Police,
Colachel Police Station,
Kanyakumari District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act,
to call for the records connected with the proceedings in Summon dated
26.03.2026 passed by the respondent No.1 and quash the same as illegal.

For Petitioner : M/s.R.Manibharathi

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

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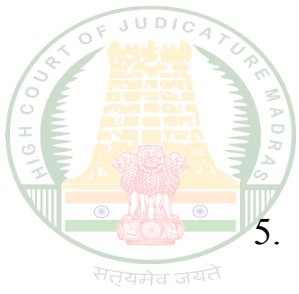
ORDER

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, he is involved in 3 criminal cases and the same is pending and he has not been convicted in any one of the criminal cases.

3. The learned Counsel for the petitioner 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.

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



5. As rightly pointed out by the learned Counsel appearing for the petitioner, so far he has not been convicted in any one of the criminal cases and therefore, the petitioner would not fall within the definition of habitual offender as contemplated under Section 2(4) of the Tamil Nadu Restriction of Habitual Offenders Act, 1948 and in such circumstances, the summons have been issued under Section 129 of BNSS without any 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 Second Class Executive Magistrate and Tahsildar,
Office of the Second Class Executive Magistrate and Tahsildar,
Kalkulam Taluk,
Kanyakumari

2. The Inspector of Police,
Colachel Police Station,
Kanyakumari District.

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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