



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF DECEMBER, 2025

BEFORE

R

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 33157 OF 2025 (GM-POLICE)

BETWEEN

1. SRI.D.C.ARAVIND
S/O LATE D.A. CHANDREGOWDA
AGED ABOUT 59 YEARS
R/AT PRASHANTH NILAYA
NO.1824, RAVINDRANAGAR
HASSAN-573 201
2. SRI. S.G. SRIDHARA
S/O LATE SRI. S.V. GUNDRU RAO
AGED ABOUT 56 YEARS
R/AT S.V. GUNDU RAO AND CO
1ST FLOOR, VIDYA BHAVAN
OLD BUS STAND ROAD
HASSAN-573 201
3. SRI. KARTHIK S BAPAT
S/O LATE SRI. S.D. BAPAT
AGED ABOUT 44 YEARS
R/AT NO.126, 2ND CROSS
GARDEN VILLAS,
GOVINDARAJNAGAR WARD
NAGARABHAVI MAIN ROAD
VIJAYANAGARA WEST
BANGALORE-560072
4. SRI ANOOP HARANAHALLI
S/O SRI. ASHOK HARANAHALLI
AGED ABOUT 36 YEARS
R/AT NO.558, 1ST MAIN ROAD,
3RD BLOCK, RMV 2ND STAGE
BENGALURU-560 094
5. SRI. ASHOK HARANAHALLI





S/O LATE SRI. HARANAHALLI
RAMASWAMY
AGED ABOUT 67 YEARS
R/AT NO.558, 1ST MAIN ROAD,
3RD BLOCK, RMV 2ND STAGE
BENGALURU-560 094

.... PETITIONERS

(BY SRI. MONMOHAN P.N., ADVOCATE FOR
SRI. VINAY N., ADVOCATE)

AND

1. STATE OF KARNATAKA
REPRESENTED BY STATION HOUSE
OFFICER OF HASSAN EXTENTION POLICE STATION
2. SRI. HONNARAJU N
AGED ABOUT 37 YEARS
POLICE OFFICE
HASSAN DISTRICT-573 201
3. THE TAHSILDAR AND EXECUTIVE MAGISTRATE
HASSAN TALUK
HASSAN DISTRICT-573 201

.... RESPONDENTS

(BY SMT. K.P. YASHODHA., AGA FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI AND QUASH THE SUMMONS DATED 30.09.2025 ISSUED BY 3RD RESPONDENT (ANNEXURE E AND F) AND AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 12.11.2025, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ



CAV ORDER

1. Petitioners are before the Court seeking for the following reliefs:

- i. Issue a writ of certiorari to quash the summons dated 30.09.2025 issued by 3rd Respondent (Annexure-E and F) and;*
- ii. Issue a writ of certiorari and quash the report dated 30.08.2025 filed by the R2 (Annexure-C) and;*
- iii. Issue a writ of certiorari and quash the preventive Action Report No.79/2025 dated 18.09.2025 registered by R1 (Annexure D) and consequently quash the entire proceedings in FAR No.79/2025 pending on the file of the Taluk Magistrate, Hassan Taluk, Hassan District and;*
- iv. Pass such other and further orders as deemed fit in light of the facts and circumstances of the case in the interest of justice.*

2. The petitioners claim to be the Office Bearers of Malnad Technical Education Society, Hassan. The main objective of the said society is to establish and run various educational institutions such as Colleges, Schools, Hostels, etc., in Hassan. The term of the office of the Executive Committee is five years; an election was held on 11.01.2025 under the Chairman of the senior most member. Certain persons having



been elected to the various posts for a period of five years, the No Confidence Motion was moved against the elected body, regarding which certain disputes arose.

3. The Deputy Registrar of Co-operative Societies vide endorsement dated 17.09.2025 held that for a smooth day-to-day administration and exigencies of the society, 13 directors having majority support may continue to carry out administration of the society as per by-law No.9(a). The society on 16.09.2025 represented by its Chairman, Secretary and Treasurer had filed a suit in OS No.762 of 2025 against the petitioners-herein seeking for declaration that the election of the plaintiff-therein was valid, genuine and acted upon.
4. In the meanwhile, respondent No.2-Police Officer had submitted a report on 18.09.2025 alleging that, on the basis of confidential information received, there were disputes among the Office Bearers of the



society. There were threats held out by one group against the other, there being threats held out that the administrative office locks would be broken open, etc., Based on the said report, the Station House Officer, Hassan Extension Police Station-Respondent No.1, registered a Preventive Action Report No.79/2025, under Section 126 of the Bharatiya Nagarika Suraksha Sanita (BNSS), 2023 (for short hereinafter referred to as "**BNSS 2023**") against the petitioners and others.

5. On the 30.09.2025, Tahsildar and Executive Magistrate-Respondent No.3 issued a message on WhatsApp attaching the summons to Petitioner No.5, directing him to appear before Respondent No.3 on 08.10.2025 to answer the charges alleged. Respondent No.3 had also issued a summons on 30.09.2025 to Petitioner No.1, directing him to appear in person on 08.10.2025 at 3.00 p.m. to answer the charges alleged. It is aggrieved by the



said summons and messages that the petitioners are before this Court challenging the said summons/messages.

6. Sri.Manmohan.P.N., learned counsel appearing for the Petitioners, would submits that;

6.1. By way of summons, the Petitioners have been called upon to show cause why security is not required to be furnished by them for keeping peace.

6.2. His submission is that Section 126 of the BNSS 2023 does not contemplate any such show-cause notice to be issued. Respondent No.3 ought to have complied with the requirement of Section 126 read with Section 130 of the BNSS 2023, no order having been passed under Section 130 of the BNSS 2023, the question of summons being issued under Section 126 of the BNSS 2023 would not arise.



- 6.3. An order under Section 130 of the BNSS 2023 would have to be a written order setting out the substance of the information received, the amount of bond required to be furnished, the time period for which the bond was to be in force, the number of sureties, etc., along with the said Order, the notice/summons under Section 126 of the BNSS 2023 is required to be issued.
- 6.4. His submission is that if the person to whom the notice has been issued is not present in Court, the Magistrate must issue a summons requiring his appearance and, in exceptional circumstances, even issue a warrant.
- 6.5. Respondent No.3 cannot issue any summons, let alone a warrant that would have to be left to the discretion of the Magistrate before whom the matter is taken up.



6.6. Even as regards such a warrant being issued under Section 133 of the BNSS 2023 the order made under Section 130 of the BNSS 2023 is required to accompany the said warrant. The procedure under Section 126 of the BNSS 2023 read with Section 130 of the BNSS 2023 not having been followed, all the actions taken by the respondents are bad in law.

6.7. He relies upon the decision of Hon'ble Apex Court in ***Madhu Limaye Vs. Ved Murti and others¹***, more particularly paras 29 to 44 and 51 to 60 thereof, which are reproduced hereunder for easy reference;

29. *We next proceed to consider the constitutional validity of Chapter VIII of the Code. It finds place in Part IV which has the explanatory heading "Prevention of Offences". The Chapter is divided into three divisions A, B and C. The purport of the Chapter can be gathered from its sub-heading "Of Security for keeping the Peace and for good behaviour".*

¹ 1970(3) SCC 746



30. *Division A is for security for keeping the peace on conviction. It consists of only one section (Section 106) and it provides that on conviction for certain offences, the Court may, at the time of passing sentence on the person convicted, if of opinion, that it is necessary to take a bond for future good behaviour, order him to execute a bond with or without sureties, for keeping the peace for a period not exceeding three years. The sum for which the bond is taken is proportionate to the means of the person and it becomes void if the conviction ultimately fails. The section is aimed at persons whose past conduct has proved dangerous to the public and is intended to secure public tranquillity and peace.*

31. *Division B then consists of 12 sections (Sections 107-110 and 112-119) and applies to cases other than those mentioned in Section 106. Of these, Section 107 is for taking security generally for keeping the peace; Section 108 is for security for good behaviour from persons disseminating sedition; Section 109 for security for good behaviour from vagrants and suspected persons and Section 110 for security for good behaviour from habitual offenders. Sections 112-119 lay down the procedure to be followed in these cases. We are concerned in these cases with the provisions of Section 107 and therefore need not refer to Sections 108-110.*

32. *The gist of Section 107 may now be given. It enables certain specified classes of Magistrates to make an order calling upon a person to show cause why he should not be ordered to execute a bond, with or without sureties for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix. The condition of taking action is that the Magistrate is informed and he is of opinion that there is sufficient ground*



for proceeding that a person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity. The Magistrate can proceed if the person is within his jurisdiction or the place of the apprehended breach of the peace or disturbance is within the local limits of his jurisdiction. The section goes on to empower even a Magistrate not empowered to take action, to record his reason for acting, and then to order the Arrest of the person (if not already in custody or before the Court) with a view to sending him before a Magistrate empowered to deal with the case, together with a copy of his reasons. The Magistrate before whom such a person is sent may in his discretion detain such person in custody pending further action by him.

33. *The section is aimed at persons who cause a reasonable apprehension of conduct likely to lead to a breach of the peace or disturbance of the public tranquillity. This is an instance of preventive justice which the courts are intended to administer. This provision like the preceding one is in aid of orderly society and seeks to nip in the bud conduct subversive of the peace and public tranquillity. For this purpose Magistrates are invested with large judicial discretionary powers for the preservation of public peace and Order. Therefore the justification for such provisions is claimed by the State to be in the function of the State which embraces not only the punishment of offenders but, as far as possible, the prevention of offences.*



34. *Both the sections are counter-parts of the same policy, the first applying when by reason of the conviction of a person, his past conduct leads to an apprehension for the future and the second applying where the Magistrate, on information, is of the opinion that unless prevented from so acting, a person is likely to act to the detriment of the public peace and public tranquillity. The argument is that these sections (more particularly Section 107) are destructive of freedom of the individual guaranteed by Article 19 (1) (a), (b), (c) and (d) and are not saved by the restrictions contemplated by clauses (2) to (5) of the Article. It is also contended that there are no proper procedural safeguards in the sections that follow, Before we deal with these contentions it is necessary to glance briefly at Sections 112-119 of Division B and Sections 120-126A of Division C.*

35. *We have seen the provisions of Section 107. That section says that action is to be taken in the manner hereinafter provided' and this clearly indicates that it is not open to a Magistrate in such a case to depart from the procedure to any substantial extent. This is very salutary because the liberty of the person is involved and the law is rightly solicitous, that this liberty should only be curtailed according to its own procedure and not according to the whim of the Magistrate concerned. It behoves us, therefore, to emphasise the safeguards built into the procedure because from there will arise the consideration of the reasonableness of the restrictions in the interest of public Order or in the interest of the general public.*

36. *The procedure begins with Section 112. It requires that the Magistrate acting under Section 107 shall make an order in writing, setting forth the substance of the information received, the*



amount of the bond, the term for which it is to be in force and the number, character and class of sureties (if any) required. Since the person to be proceeded against has to show cause, it is but natural that he must know the grounds for apprehending a breach of the peace or disturbance of the public tranquillity at his hands. Although the section speaks of the 'substance of the information' it does not mean that the Order should not be full. It may not repeat the information bodily but it must give proper notice of what liás moved the Magistrate to take the action. This Order is the foundation of the jurisdiction and the word 'substance' means the essence of the most important parts of the information.

37. *Next follow three sections, Sections 113-115. They deal with the person's presence. Section 113 deals with the situation when the person is present in Court, then the Order shall be read over to him and if he so desires, the substance of it shall be explained to him. This is not a mere formality. The intention is to explain to the person what the allegations against him are. The next section (Section 114) deals with a situation when the person is not present in Court. There the option is two-fold. Ordinarily, a summons must issue to him but in cases where the immediate Arrest of the person is necessary warrant for his Arrest may issue. This is however subject to the qualification that there must be a report of a Police Officer or other information in that behalf and the breach of the peace cannot otherwise be prevented. The Magistrate must not act on an oral information but must record the substance of it before issuing a warrant. The section also envisages a situation in which the person is already in custody. In that case the Magistrate shall issue a warrant directing the Officer having*



the custody to produce that person. The provisions of this section are quite clearly reasonable in the three circumstances it deals with. If the presence of the person is to be secured, a summons to him is the normal course except in the other two cases.

38. *Section 115 then provides that such summons or warrant under Section 114, as the case may be, must be accompanied by the Order under Section 112 and the person serving or executing the summons or warrant must serve the Order on the person. There is enabling power in Section 116 under which the Magistrate may dispense with the presence of the person in Court and allow him to appear by a pleader.*

39. *Then follows Section 117. That section [omitting the proviso to the third sub-section and omitting sub-sections (4) and (5) which do not concern us] may be read here:*

"117. Inquiry as to truth of information

(1) When an order under Section 112 has been read or explained under Section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under Section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in summons cases,



(3) Pending the completion of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the Order under Section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the enquiry is concluded."

40. *The first sub-section, read with the second requires the Magistrate to inquire into the truth of the information. The third sub-section enables the Magistrate to ask an interim bond pending the completion of the inquiry by him. This is conditioned by the fact that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for prevention of public safety. is applicable where the person is not in custody and his being at large without a bond may endanger public safety, etc. etc. The Magistrate has to justify his action by reasons to be recorded in writing. If the person fails to execute a bond, with or without sureties, the Magistrate is empowered to detain him in custody.*

41. *A question was raised before us whether the Magistrate can defer the inquiry and yet ask for an interim bond. There is a difference of opinion in the High Courts. Some learned Judges are of opinion that this action can be taken as soon as the person appears because then the Magistrate may be said to have entered upon the inquiry. Other learned Judges are of the opinion that sub-*



sections (1) and (2) envisage that the Magistrate must proceed to inquire into the truth of the information and only after prima facie satisfying himself about the truth and after recording his reasons in writing can the in- terim bond be asked for. Some of the cases on the previous view are- Emperor v. Nabibux and Others, Dulal Chandra Mondal v. State, Gani Ganai and Others v. States and Laxmilal v. Bherulal. Those representing the other view are- In re Muttuswami, In re Venkatasubba Reddy, Jagdish Prasad v. State, Jalaludin Kunju v. State, Shravan Kumar Gupta v. Superintendent, District Jail, Mathura and Others, Fangir Singh v. The State, Rama Gowda and Others v. State of Mysore and Ratilal Jasraj v The State.

42. *In our opinion the words of the section are quite clear. As said by Straight J. in Emperor v. Babua, the Order under Section 112 is on hearsay but the inquiry under Section 117 is to ascertain the truth of the necessary information. Sub-section (1) contemplates an immediate inquiry into the truth of the information. It is pending the completion of the inquiry that an interim bond can be asked for if immediate measures are necessary, and in default it is necessary to put the person in custody. Therefore, as the liberty of a person is involved, and that person is being proceeded against on information and suspicion, it is necessary to put a strict construction upon the powers of Magistrate. The facts must be of definite character. In Nafar Chandra Pal vs. The King Emperor there was only a petition and a report and these were not found sufficient material. In some of the cases before us no effort was made by the Magistrate to inquire up to the truth of the allegations. The Magistrate adjourned the case from day to day and yet asked for an interim bond. This makes the proceedings entirely*



one-sided. It cannot be described as an inquiry with- in an inquiry as has been said in some cases. Some inquiry has to be made before the bond can be ordered. We, therefore, approve of those cases in which it has been laid down that some inquiry should be made before action is taken to ask for an interim bond or placing the person in custody in default. In an old case reported itu A.D. Dunne v. Hemchandra, a Full Bench of the Calcutta High Court went into the matter. The case arose before the present Code of Criminal Procedure and, therefore, there was no provision for an interim bond. But what Sir Barnes Peacock, C.J. said applies to the changed law also not only with regard to the ultimate Order but also to the interim Order for a bond. The section even as it is drafted today is hedged in with proper safeguards and it would be moving too far away from the guarantee of freedom, if the view were allowed to prevail that without any inquiry into the truth of the information sufficient to make out a prima facie case a person is to be put in jeopardy of detention. A definite finding is required that immediate steps are necessary. The Order must be one which can be made into a final order unless something to the contrary is established. Therefore it is not open to a Magistrate to adjourn the case and in the interval to send a person to jail if he fails to furnish a bond. If this were the law a bond could always be insisted upon before even the inquiry began and that is neither the sense of the law nor the wording or arrangement of the sections already noticed.

43. *The power which is conferred under this Chapter is distinguished from the power of detention by executive action under Article 22 of the Constitution. Although the Order to execute a*



bond, issued before an offence is committed, has the appearance of an administrative order, in reality it is judicial in character. Primarily the provision enables the Magistrate to require the execution of a bond and not to detain the person. Detention results only on default of execution of such bond. It is, therefore, not apposite to characterise the provision as a law for detention contemplated by Article 22. The safeguards are therefore different. The person sought to be bound over has rights which the trial of summons case confers on an accused. The Order is also capable of being questioned in superior courts. For this reason, at every step the law requires the Magistrate to state his reasons in writing. It would make his action purely administrative if he were to pass the Order for an interim bond without entering upon the inquiry and atleast prima facie inquiring into the truth of the information on which the Order calling upon the person to show cause is based. Neither the scheme of the chapter nor the scheme of Section 117 can bear such an interpretation. We accordingly, hold in the case of Madhu Limaye (Writ Petition 307 of 1970, Madhu Limaye and Another v. Ved Murti and Others) that as the case was simply adjourned from time to time and there was no inquiry before remanding him to custody his detention was illegal. We may now briefly notice the remaining sections of the Chapter.

44. *Section 118 then lays down that if upon inquiry it is proved that the person be called upon to execute a bond for keeping the peace or maintaining good behaviour the Magistrate may call upon him to execute a bond. The security must not be more than that stated in the Order under Section 112, nor excessive. Under Section 119 the Magistrate may discharge the person or*



release him from custody if the necessity for keeping him bound over is not proved.

51. *It has to be noticed that, when proceedings are contemplated under Section 107, the Magistrate takes action when he is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, only after forming an opinion that there is sufficient ground for proceeding against him. The Magistrate cannot start the proceedings merely because of the information received by him. Pursuant to the information, the Magistrate has to form his opinion that there is sufficient ground for proceeding. This opinion can be formed on the basis of the information supplied to him if he finds that the information is given in sufficient detail and is reliable enough to justify his acting on its basis. In cases where the information given is not of such nature, it will be the duty of the Magistrate to hold further inquiry and satisfy himself that it is a fit case where action should be taken because sufficient grounds exist. There may be cases where the information may be received from the police in which case the Magistrate may examine all the police papers and satisfy himself that there do exist sufficient grounds for him to take the proceedings as requested by the police. There may be cases where the proceedings may be instituted at the instance of a private complainant who may be apprehending breach of the peace by the person complained against. In such cases, the Magistrate is bound either to hold some inquiry himself by examining witnesses on oath or to have an inquiry made through the police, so that he may be able to form a correct opinion as to the existence of sufficient grounds for proceeding. It is after the Magistrate has taken these steps that he can proceed to make the Order under Section 112. When making that*



Order, he has to record in it in writing the substance of the information received which necessarily means the part of the information which was the basis of his opinion that sufficient grounds exist for initiating the proceedings. It is at this preliminary stage that the Magistrate is thus required to ensure that a prima facie case does exist for the purpose of initiating proceedings against the person who is to be called upon to furnish security for keeping the peace.

52. *After the Order under Section 112 has been issued, the procedure to be adopted is that contained in Sections 113 and 114. If such person is present in Court, the Order under Section 112 has to be read over to him and, if he so desires, the substance thereof has to be explained to him. If he is not present in Court, the Magistrate has to issue a summons requiring him to appear, or, when such person is in custody, a warrant, directing the Officer in whose custody he is, to bring him before the Court. Another alternative procedure is laid down for cases where it appears to the Magistrate that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate Arrest of such person; in such cases, the Magistrate can issue a warrant for the Arrest of that person. It is under this procedure that the person appears or is brought before the Court. The proceedings to be taken thereafter are laid down in Section 117(1) which requires that, as soon as the Order under Section 112 has been read or explained to the person present in Court under Section 113, or to the person who appears or is brought before a Magistrate under Section 114, the Magistrate has to proceed to enquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear*



necessary. This inquiry under sub-section (2) of Section 117 has to be held in the manner prescribed for conducting trials and recording evidence in summons cases. Sub-section (1) of Section 117, thus, contains a mandatory direction on the Magistrate to start proceedings of inquiry as soon as the person, in respect of whom the Order under Section 112 has been made, appears before the Magistrate.

53. *Section 117(1) makes it clear that the Magistrate must institute the inquiry without any unnecessary delay. This provision cannot, however, be interpreted as requiring that the inquiry must begin immediately when the person appears in the Court. Obviously, such a requirement would be impracticable. In a case where a summons is issued to the person to appear in Court, or a warrant is issued under the proviso to Section 114 for his Arrest, the date and time when the person will appear in the Court of the Magistrate will always remain uncertain. Some time will have to be taken in serving the summons and, depending on the distance and accessibility of the place where the person happens to be, the time taken in serving the summons will vary. Even in cases where a warrant is issued under the proviso to Section 114, the person may not be produced in Court immediately because of the place of his Arrest which may be miles away from the Court of the Magistrate.*

The Legislature could not have contemplated that, in such contingencies, witnesses must be kept ready in the Court of the Magistrate awaiting the appearance of the person concerned, so that the Magistrate can start the inquiry immediately. Further, the inquiry under Section 117(1) is directed in the manner prescribed for conducting trials in summons cases.



The result of the inquiry can be that the person concerned can be asked to execute bonds and give sureties for keeping the peace and, if he commits default in doing so, he can be detained in prison losing his personal liberty. In such cases, the person concerned has a right to be represented by a lawyer in the inquiry. Consequently, when he appears before the Magistrate, he can legitimately ask for a responsible adjournment to enable him to engage a lawyer of his choice and, thus, at his own request, he can ensure that the inquiry does not begin immediately. The proper interpretation of sub-section (1) of Section 117, in my opinion, is that the inquiry must be begun as soon as practicable and a Magistrate would be committing a breach of the direction contained in this sub-section if he postpones the inquiry without sufficient reasons.

54. *It is in the light of these principles that, in my opinion, the power granted to the Magistrate under Section 117(3) should be interpreted. That power is given for cases where immediate measures are necessary for the prevention of a breach of the peace. In such a situation, the Magistrate can direct the person, in respect of whom the Order under Section 112 has been made, to execute a bond, with or without sureties, for keeping the peace pending completion of the inquiry under Section 117(1) and, if he fails to execute the bond, the Magistrate can direct his detention until the inquiry is concluded.*

55. *This power to be exercised by the Magistrate in emergent cases has been conferred in the background of the procedure which he has to adopt under Section 187 of forming an opinion, after receipt of information, that there do exist sufficient grounds for taking proceedings. At the*



first stage, when forming such opinion, the Magistrate naturally acts ex parte and has to rely on information supplied to him or other information obtained by him in the absence of the person against whom proceedings are to be taken.

56. *It is on the basis of that opinion that the Magistrate proceeds to make the Order under Section 112 and is empowered even to issue a warrant of Arrest under the proviso to Section 114. The power under Section 117(3) is most likely to be invoked in cases where the Magistrate has, at an earlier stage, issued the warrant under the proviso to Section 114. This is so because the warrant is issued in cases where breach of the peace cannot be prevented otherwise than by immediate Arrest, and Section 117(3) also is to be invoked where the Magistrate considers that immediate measures are necessary for prevention of breach of the peace.*

The Legislature, having empowered the Magistrate to issue warrant of Arrest, naturally proceeded further to give power to the Magistrate in such cases to direct that bonds for keeping the peace be furnished pending completion of the inquiry. The expression "completion of the inquiry" must be interpreted as the period covered from the beginning of the inquiry until its conclusion.

57. *The bonds can, therefore, cover the period from the moment the inquiry is to begin. Such a power for requiring that bonds be furnished pending inquiry is obviously necessary where there is immediate danger of breach of the peace and immediate measures are necessary for its prevention. The Order is made on the basis of the earlier opinion formed by the Magistrate under Section 107. Subsequently, of course, when the inquiry is held under Section 117(1), the*



correctness of the information and the tentative opinion formed ex parte under Section 107 will be properly tested after going through the judicial procedure prescribed for the trial of summons cases and, thereupon, if it is found that there was no justification, the Order would be revoked. In my opinion, the grant of such a power to a Magistrate is a very reasonable restriction on the personal liberty of a citizen. It is needed for prevention of crimes and it can only be effective if its exercise is permitted on the basis of opinion formed by a competent authority that immediate measures are required. It is true that, under Section 117(3), a person can be detained in jail even prior to a Court arriving at a judicial finding against him; but such a procedure is not only reasonable, but essential.

58. *In this respect, the power of a Magistrate in regard to a person accused of a cognisable offence is comparable. If a Magistrate has sufficiently reliable information to form an opinion that a person has committed a cognisable offence, the Magistrate can order his detention as an under-trial prisoner. At that stage, the law deems that person still to be innocent and, yet, his detention in prison is considered reasonable in order to ensure that a proper trial can be held and there is no repetition of the offence of which that person is accused. This detention as an under-trial prisoner is also based on the ex parte opinion formed by the Magistrate before the actual trial. The power granted under Section 117(3) is very similar and is intended to ensure that the person, from whom breach of the peace is apprehended, is not at liberty to commit breach of the peace and thus defeat the purpose of the proceedings by being allowed to remain at liberty without any undertaking during the pendency of the inquiry.*



59. *In this connection, it was urged by Mr Garg that, if Section 117(3) is interpreted as permitting a Magistrate to direct furnishing of bonds for keeping the peace and to order detention in default without any evidence being obtained in the course of the inquiry, the Magistrate may keep on adjourning the hearing of the inquiry under Section 117(1) and, thus, keep the person in detention for long periods without giving him the opportunity of showing that there is no justification for orders being made against him. In my opinion, the validity of a provision of this nature is not to be judged from the likelihood of the abuse of the power by the Magistrate. If the Magistrate, after making orders under Section 117(3), unnecessarily postpones the inquiry, he would, in my opinion, be only abusing his powers, but will be acting contrary to the mandate of the law contained in Section 117(1) itself which, as I have indicated above, requires that the Magistrate must proceed to enquire into the truth of the information without unnecessary delay. In cases where the power is abused and the hearing is unnecessarily delayed, the proceedings would be liable to be quashed and the person set at liberty on the ground that the Magistrate has not complied with the requirements of Section 117(1). On the other hand, if the Magistrate does comply with Section 117(1) by continuing the proceedings of inquiry expeditiously and without any delay, I do not think it can be said that the detention of the person, against whom the proceedings are being taken, is not a reasonable restriction on his personal liberties when the Magistrate has already found that immediate measures are necessary for prevention of breach of the peace and the person concerned has defaulted in furnishing bonds to keep the peace during the pendency of the inquiry.*



60. *These are the reasons why, in my opinion, the powers under Section 117(3) can be exercised without the Magistrate recording evidence and finding a prima facie case after starting the inquiry under Section 117(1). Even on this interpretation, Section 117(3) is valid and is a reasonable restriction under Article 19(2), (3), (4) and (5) of the Constitution.*

6.8. He relies upon the decision of this Court in ***Sathi Sundaresh v. State P.S.I. of Moodigere Police Station,***² more particularly para 3 to 9 thereof, which are reproduced hereunder for easy reference;

3. *The provisions of Section 107 of Cr.P.C. will have to be invoked by the Executive Magistrate only if he is of the opinion that there is every likelihood of breach of peace. The underlying object of Section 107 of Cr.P.C. is preventive and not penal. The section is designed to enable the Magistrate to take measures with a view to prevent commission of offences involving breach of peace or disturbance of public tranquillity. Wide powers have been conferred on the Magistrates specified in this section and as the matter affects the liberty of an individual who has not been found guilty of an offence, it is essential that the power should be exercised strictly in accordance with law as has been held by the Apex Court in the case of RAM NARAIN SINGH AND OTHERS VS STATE OF BIHAR'. The provisions of chapters VIII may be easily made an engine of injustice and oppression and the High Court will exercise closest scrutiny to prevent the same. Section 107 of Cr.P.C. is*

² ILR 2007 KAR 2238



not intended to afford the police a means of getting hold of a person against whom they cannot foist an offence or to enable them to detain him until they can work out a case against him. Section 107 of Cr.P.C. is mainly intended for persons who are of desperate characters and habitually disturbing the public peace. The proceedings under Section 107 of Cr.P.C. are concerning proper bonds to be taken from the concerned persons by way of security for keeping peace. These proceedings are popularly known as charter proceedings. There is no question of any person being accused of any offence in such proceedings. Definition of the word "offence" as per Section 2(n) of Cr.P.C. shows that the proceedings under Section 107 of Cr.P.C cannot have any thing to do with any accusation regarding any offence as such. It is also necessary to note that the Executive Magistrate in exercise of his power under Section 107 of Cr.P.C. cannot act as Judicial Magistrate.

4. *The impugned Order is purported to have been made in exercise of jurisdiction under Section 107 of Cr.P.C. by the Taluka Executive Magistrate. It is most unfortunate that the Taluka Executive Magistrate has totally ignored the provisions of Section 107 and Section 111 of Cr.P.C. before passing the impugned Order.*

5. *The records in this matter would disclose that the petitioners were on strike on 6.3.2007 without prior permission of the concerned with a view to pressurise the local MLA and Health Department to provide infrastructure facilities to the M.G.M. Hospital at Moodigere. They had also demanded that the doctors with specialisations should be appointed to the said hospital. As the petitioners had collected in front of the house of the local MLA during midnight of that day, the Sub-Inspector of Police came to the spot and arrested the petitioners by exercising his jurisdiction under Section 151 of Cr.P.C. The said fact is intimated to the jurisdictional Taluka Executive Magistrate on 6.3.2007 itself by the police. The Taluka Executive Magistrate*



has passed the impugned Order in exercise of his jurisdiction under Section 107 of Cr.P.C. and directed the Sub-Inspector of police to send the petitioners to judicial custody from 6.3.2007 to 12.3.2007. The said Magistrate further directed that all the petitioners be produce before him at 3.00 p.m. on 12.3.2007.

6. *At the outset it should be mentioned that the Taluka Executive Magistrate has not at all passed the Order under Section 111 of Cr.P.C, which is mandatory. By passing such Order under Section 111 of Cr.P.C, the Executive Magistrate should have required the petitioners to show cause under Section 107 of Cr.P.C. Such Order should have been in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number, character and class of sureties, if any required. Passing of such preliminary Order under Section 111 of Cr.P.C is sine qua non to proceed further. If such an order is not passed, the entire proceedings under Section 107 of Cr.P.C. vitiate. As the Taluka Executive Magistrate has proceeded to detain the petitioners to judicial custody for six days without even passing the preliminary Order under Section 111 of Cr.P.C., and without giving any opportunity to the petitioners to show cause as required under law, the proceedings initiated against the petitioners vitiate and the same are liable to be quashed.*

7. *The first requirement, as aforementioned is that the Magistrate must pass an order under Section 111 of Cr.P.C. Section 112 of Cr.P.C deals with the procedure when the person is present in the Court. Then the Magistrate must read over the Order to the person and if he so desires, the substance of it must be explained to him. When the person is not present in the Court, Section 113 of Cr.P.C. applies. The Magistrate shall then issue summons to him to appear and if he is in custody, the Magistrate shall issue a warrant to the person who has his custody to produce him before the*



Court. If there is need for immediate Arrest of the person, then, the Magistrate on the report of the Police Officer or upon other information may issue warrant for the Arrest of that person. Warrant of Arrest can only be issued if there is reason to fear that the breach of peace cannot be prevented except by the Arrest of the person. The summons, as well as the warrants issued to the persons will have to be accompanied by the copy of the Order passed under Section 111 of Cr.P.C., which means that, the summons and warrant of Arrest cannot be issued against any person unless the Order under Section 111 of Cr.P.C. is made against such person. The enquiry as to the truth of information will be proceeded with as per the provisions of Section 115 of Cr.P.C. Under sub-Section (3) of Section 116 of Cr.P.C., a power has been conferred on the Magistrate to ask for interim bond with or without sureties to keep peace pending completion of the enquiry. This power is used if the Magistrate considers that immediate measures are necessary for the prevention of breach of peace or commission or disturbance of public tranquillity. He does so for reasons to be recorded in writing and if the person does not execute such bond, the Magistrate is empowered to detain him in custody till the bond is executed or enquiry is concluded. After completion of enquiry, final Order would be passed under Section 117 of Cr.P.C.

8. *In this matter, as aforementioned, no proceedings under Section 107 of Cr.P.C. were drawn before the Arrest of the petitioners. No preliminary order was passed under Section 111 of Cr.P.C before the detention of the petitioners. The petitioners were arrested first and then taken to the Executive Magistrate with a view to have bond over. Even when the petitioners appeared before the Executive Magistrate, neither the Order was passed under Section 111 of Cr.P.C. nor was it read over to the petitioners. The Magistrate had not taken any action to call for the interim bond by the petitioners and had not issued the warrant. Thus, the entire procedure of detaining the petitioners in custody without drawing any order under*



Section 111 of Cr.P.C. is bad in the eye of law. Without making Order under Section 111 of Cr.P.C., and without making any enquiry, neither could the Magistrate order the petitioners to be detained in custody nor require them to execute a bond with or without surety. As aforementioned, the preliminary requirement to proceed with the provisions of Section 107 of Cr.P.C. is to pass an order under Section 111 of Cr.P.C.

9. *Thus, it is clear from the scheme of Chapter VIII that the person, under Section 107 of Cr.P.C., can be arrested only if the Magistrate, under Section. 113 of Cr.P.C., based on the report of the police officer or upon other information (the substance of which report or information is to be recorded in writing by the Magistrate) was of the opinion that there is reason to fear the commission of breach of peace and that such breach of peace cannot be prevented otherwise than by immediate Arrest of such person, the Magistrate may at any time after passing the Order under Section. 111 of Cr.P.C., issue warrant of his Arrest. Secondly, if a person refuses to execute interim bond as contemplated under Section 116(3) of Cr.P.C., the person may be detained in custody. Thirdly, if the bond is not executed by a person after full pledged enquiry as per the Order of the Executive Magistrate, he may be detained in custody under Section. 122 of Cr.P.C.*

As aforementioned, in this matter, the Sub-Inspector of Police in exercise of his power under Section 151 of Cr.P.C. arrested the petitioners. But no person arrested under Section 151(1) of Cr.P.C could be detained in custody for a period exceeding 24 hours from the time of his Arrest unless his further detention was required or authorised under any other provisions of Cr.P.C. or of any other law for time being in force, as is clear from Section 151 (2) of Cr.P.C. The petitioners were produced before the Taluka Executive Magistrate within 24 hours of their Arrest but not before Judicial



Magistrate. The detention of the petitioners could not have been continued by the Executive Magistrate either under Section, 113 or under Section 116 (3) of Cr.P.C. as the Executive Magistrate has not passed any order under Section 111 of Cr.P.C. or under Section. 116(3) of Cr.P.C. Applicability of Section 167 of Cr.P.C is also ruled out before Executive Magistrate. Under these circumstances, the Executive Magistrate had obviously no power, jurisdiction or authority to direct the Sub-Inspector of Police to send the petitioners to custody for six days. Therefore, the Order dated 6.3.2007 and the proceedings in MAG2/CR/53/06- 07, are liable to be quashed. Hence, the following Order is made.

The impugned Order dated 6.3.2007 passed in MAG.2/CR/ 53/06-07, pending on the file of Taluka Executive Magistrate, Moodigere, stand quashed. The proceedings are dropped. The copy of this order shall be sent to Taluka Executive Magistrate, Moodigere, for his guidance in future.

Criminal petition is allowed accordingly.

6.9. He relies upon the decision of this Court in ***Sri Rustom Kerawala vs. State of Karnataka by Varthur Police Station and Anr.***³, more particularly para 9 to 12 thereof, which are reproduced hereunder for easy reference;

9. *It is worth to reproduce those provisions.*

³ ILR 2015 KAR 300



"Section 107 Cr.P.C.: Security for keeping peace in other cases: (1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may in the manner herein after provided, require such person to show cause why he should not be ordered to execute a bond(with or without sureties) for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquility or to do any wrong full act as aforesaid beyond such jurisdiction.

Section 111 of Cr.PC is mandatory in nature which reads thus :-

*"111. Order to be made - When a Magistrate acting under Section 107, Section 108, Section 109 or Section 110, deems it necessary to require any person to show cause under such Section, **he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.**"*

(Emphasis supplied)



The above said provisions are mandatory direction to be strictly and meticulously followed by the TEM in order to act under Sections 107, 108, 109 and 110 of Cr.PC. in the given circumstances under the said provisions.

10. *Before passing such an Order, the TEM has duty bound to pass an Order in writing under Section 111 of Cr.PC specifically setting forth the substance of information received, the amount of bond to be executed, the term for which it is to be in force, and the number, character and class of sureties required to be furnished by the petitioner. In this particular case, it appears the computerised format does not even contain any factual matrix of this particular case. He has to specifically mention as to how he has received such information and how he has satisfied that there was an apprehension for breach of peace in a particular place.*

11. *Section 107 of Cr.PC also clearly indicates that the TEM while passing an Order after receiving information, he must satisfy himself that any person is likely to commit breach of peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of the opinion that there is sufficient ground for proceeding, then only he may pass an Order under Section 111 of Cr.P.C. These legal requirements have virtually thrown to the wind by the TEM in utter disregard to the contents of Sections 107 and 111 of Cr.PC. But, in this case such an act of the TEM not be encouraged and the same has to be deprecated. Further, added to that in the Order, the satisfaction of the TEM is also not mentioned and he has also not mentioned the amount of the bond to be executed and the term for which the Order shall be in force and the number, character of the sureties. Therefore, the above said Order/Communication issued by the TEM calling upon the petitioner to appear before him is illegal and the same is liable to be quashed.*



12. *Before parting with this Order, I feel i, just and necessary to recollect that in spite of issuing direction by this Court in several occasions, the **TEMs.** are repeatedly passing such type of illegal Orders. As I have already narrated that it is not only causing harassment to the persons against whom such proceedings are initiated but also it will take away the valuable right of the complainant who go before the **TEMs.** for the remedies under the said provision. Therefore, the Government has to take serious view on this particular point and they have to hold seminars, refresher courses to enlighten the **TEMS.** as to how they have to invoke provision under Section 107 of Cr.PC and what are the legal requirements to be followed before passing such Order under the said provision. In spite of issuing such circulars and directions by the Government, if the **TEMs.** continue to pass such type of Orders deliberately, the Government should not hesitate to take action against such Officers in accordance with law. For the aforesaid reasons, in my opinion, the entire proceedings pending before the **TEMs.** deserves to be quashed.*

Accordingly, the petition is allowed. The entire proceedings in Case No.MAG/CR/107-CRPC/32/14-15 dated 24.7.2014 are hereby quashed. Office is hereby directed to send a copy of this Order to the Chief Secretary to the Government in order to circulate the same to all the Taluka Executive Magistrates, who are empowered to exercise powers under Sections 107 and 111 of Cr.P.C., and also hold Seminars, Workshops often to educate the concerned officers.

6.10.An order passed by Co-ordinate Bench of this
Court in **Hyder Ali vs. State of Karnataka**



and Ors.,⁴ more particularly para 3 and 4 thereof, which are reproduced hereunder for easy reference;

3. Section 111 of the Code of Criminal Procedure, 1973, states that when a Magistrate, acting under Section 107, Section 108, Section 109, or Section 110, deems it necessary to require any person to show cause under such sections, they must issue a written order. This Order should detail the substance of the information received, the amount of the bond to be executed, the term for which the bond is to be in force, and the number, character, and class of sureties (if any) required.

4. In the present case, the respondent issued a Show Cause Notice to the petitioner and subsequently registered the Preventive Action Report. This procedure contravenes Section 111 of the Code of Criminal Procedure.

6.11. An order passed by Co-ordinate Bench of this Court in **Hanumanth and Anr. vs. State of Karnataka and Ors.,**⁵ more particularly para 5 to 8 thereof, which are reproduced hereunder for easy reference;

5. has registered a The material on record would go to show that the Sub-Inspector of Police, Hirehadagali, Vijayanagara District, preventive action report against the petitioners herein under Section 129 of the BNSS,

⁴ dated 31.07.2024 in Writ Petition No.13399 of 2024

⁵ dated 29.08.2025 in Criminal Petition No.103285 of 2025



2023 and thereafter has requested respondent No.2 to initiate appropriate proceedings against them under Section 129 of the BNSS, 2023 for the purpose of executing necessary bonds. On receipt of a report from the Police Officer, respondent No.2, Tahasildar has issued a show-cause notice to the petitioners without passing mandatory preliminary Order as provided under Section 130 of the BNSS, 2023.

6. *Section 130 of the BNSS, 2023 reads as follows:*

"130. Order to be made.- When a Magistrate acting under section 126, section 127, section 128 or section 129, deems it necessary to require any person to show-cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the sufficiency and fitness of sureties."

7. *Section 130 of the BNSS, 2023 is pari materia to Section 111 of Cr.P.C. This Court in the case of Sri. Nithyananda Swamiji @ Thiru Rajashekarar vs. District Magistrate and Deputy Commissioner, Ramnagar District¹, has observed that, the Taluk Executive Magistrate, without passing orders under Section 111 of Cr.P.C. cannot initiate a proceeding under Section 107 of Cr.P.C. and if such an order is passed under Section 107 of Cr.P.C., the same is bad in law.*

8. *In the case on hand, without passing mandatory preliminary orders, as provided under Section 130 of the 1 Cr.P. No.3253/2012, DD: 25.02.2013 BNSS, 2023, which is equivalent to Section 111 of Cr.P.C., respondent No.2 Tahasildar and Taluk Magistrate has issued show-cause notices to the petitioners under Section 129 of BNSS, 2023. The same is not permissible and therefore, to that extent, this criminal petition succeeds and accordingly the following:*



ORDER

(i) The criminal petition is partly allowed.

(ii) The show-cause notice issued to the petitioners under Sections 129 and 132 of BNSS, 2023 by respondent No.2 Tahasildar and Taluka Magistrate is quashed, reserving liberty to proceed further in the matter taking into consideration the above observations made hereinabove.

6.12. An order passed by one other Co-ordinate Bench of this Court in ***Sri Nithyananda Swamiji Vs. District Magistrate.***⁶, more particularly para 6 to 11 thereof, which are reproduced hereunder for easy reference;

5. *As noticed supra, the respondent-police registered the case in Crime No.308/2012 under Sections 107 r/w. 151 of Cr.P.C.. Reading of Sections 107 and 151 of Cr.P.C. indicates that, it does not deal with any offence, for which a crime case could be registered.*

6. *Section 107 deals with 'Security for keeping the peace in other cases'. According to sub-section (1), 'when an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any*

⁶ dated 02.05.2013 in Criminal Petition No.3253 of 2012



wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner provided therein, require such person to show cause why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period, not exceeding one year.

7. *Reading of Section 111 of Cr.P.C. make it clear that on being satisfied about the existence of such situation, before proceeding to call upon a person to show cause as provided by Section 107, it is mandatory to pass preliminary Order in writing as required by Section 111 of Cr.P.C. and such an order should set-forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties, if any, required.*

8. *Section 116 deals with the procedure regarding enquiry. As per this Section, in the enquiry as to the truth of the information, if the person to whom a show-cause or is brought before the notice is issued, appears Magistrate, the Magistrate should enquire into the truth of the information upon which action has been taken and to take such further evidence as may appear necessary.*

9. *Of course, sub-section (3) of Section 116 empowers the executive Magistrate to direct such person to execute the interim bond during the period after the commencement of the enquiry and before the completion of the enquiry, if the Magistrate considers that immediate measures are necessary for the prevention of breach of peace or disturbance of the public tranquility or the commission of any offence or for the public safety. In such event the Magistrate is required to pass a reasoned order and direct the person in respect of whom a preliminary order under Section 111 has been made to execute a bond until the*



conclusion of the enquiry and in the event of the failure on the part of such person to execute the interim bond, or in the event of default, such person may be detained in custody till execution of such bond or until the enquiry is concluded. It is only after the conclusion of the enquiry as contemplated under Section 116, the Magistrate is required to pass a final order directing the person so proceeded against to execute a bond.

10. *Section 151 of Cr.P.C. deals with 'Arrest to prevent the commission of cognisable offences. According to the provision of Sub-section (1) of Section 151, 'A police officer knowing of a design to commit any cognisable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented'. Sub-section (2) directs that 'No person arrested under sub-section (1) shall be detained in custody for a period exceeding 24 hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Code or of any other law for the time being in force'.*

11. *Perusal of the FIR in the case on hand indicates that the respondent-police had registered the case for the offence under Section 107 r/w. 151 of Cr.P.C.. This Court is not able to understand as to how the police officer could register the case for the offences under Sections 107 and 151 of Cr.P.C. when those sections does not deal with any offence and they deal only with the preventive measures. Therefore, the registration of the FIR under those Sections is without any authority, as those sections does not deal with any offences. Perusal of the certified copy of the proceedings before the District Magistrate would indicate the further illegality in the proceedings. Based on the FIR submitted by the respondent-police, the District Magistrate initiated the proceedings under Section 107 of Cr.P.C. On the very same day, the petitioner was*



arrested and produced before the District Magistrate and the District Magistrate remanded the petitioner to the judicial custody for a period of seven days. As noticed supra, reading of Sections 107, 111, 116 and 151 of Cr.P.C., does not indicate any power on the part of the executive Magistrate to remand the petitioner to judicial custody, since it is not shown that his detention was required in any other case nor his detention was authorised for any of the other offence. As noticed supra, the only circumstance in which the District Magistrate or the Executive Magistrate could detain a person in custody is, where the Executive Magistrate passes an order in writing directing the person to execute an interim bond pending enquiry in terms of Section 116 (3) of Cr.P.C., and failure or default on the part of such person to execute such interim bond. Even such detention would be upto the date of execution of the interim bond or upto the conclusion of the enquiry. There is absolutely no material on record to indicate that the District Magistrate in exercise of power under sub-section (3) of Section 116 of Cr.P.C. directed the petitioner to execute an interim bond pending enquiry. Therefore, there was no compulsion on the part of petitioner to execute interim bond. Therefore, the District Magistrate had no authority to remand the petitioner to judicial custody, as such, the remand of the petitioner to judicial custody was without authority of law. The Order dated 14.06.2012 passed by the District Magistrate directing the petitioner to execute a bond for a sum of Rs.1,00,000/- with two sureties for the like-sum to be in force for a period of one year, without holding any enquiry as required under Section 116, is contrary to law and without jurisdiction. There also appears to be no preliminary order as required by Section 111 of Cr.P.C.. Therefore, the entire proceedings before the District Magistrate, Ramanagara, initiated under Section 107 of Cr.P.C. and various orders passed therein are contrary to law and without any jurisdiction. Therefore, the FIR as well as the further proceedings taken thereon are required to be quashed.



6.13. His submission is also that in respect of 24 persons against whom summons have been issued, there is no specific allegations against each of the persons. Notices have been issued merely because they are the directors of the society; there is no basis to issue the summons without a conclusion having been arrived at, as to how they are likely to breach the peace and what is the security that is required to be made available.

6.14. The dispute between the parties, being directors of the society, is civil in nature; there is no requirement to invoke a criminal remedy, let alone under the BNSS 2023, more particularly under Sections 126 and 130 thereof. Any order passed under Section 130 would have to categorically detail as to an existing real proximate, and credible



apprehension of breach of peace from the specific person against whom action is initiated.

6.15. The quantum of surety/security would also have to be determined on the basis of the allegations against such a person. There is complete Non-application of mind by respondent No.3 while issuing the summons. The summons have been issued on vague hearsay assertion and speculative assumptions, there is no material on record indicating any threat on part of the petitioners to cause breach of peace.

6.16. His submission is that the petitioners being law-abiding citizens, petitioners No.4 and 5 being advocates by profession, petitioner No.5 being a designated Senior advocate, they have been unnecessarily dragged into these proceedings at the behest of certain other members of the governing body of the society.



6.17.If all these factors are taken into consideration, there is no possibility of the petitioners, more particularly, Petitioners No. 4 and 5, causing any breach of peace, as alleged or otherwise. Petitioners No.1 to 3 are also reputed persons in their respective fields. The issuance of a summons under Section 126 of the BNSS 2023 would have the effect of tarnishing their reputation, which aspects have not been taken into consideration by the respondents.

6.18.On all the above basis, he submits that the writ petition is required to be allowed. The summons dated 30.09.2025 issued by respondent No.3, as also the report submitted by Respondent No.2 on 30.08.2025, in pursuance of which the Preventive Action Report No.79 of 2025 has been registered, are required to be quashed.



7. Smt.K.P.Yashoda., learned AGA appearing for respondents No.1 to 3 would submit that;

7.1. A confidential report having been received after due enquiry that the directors of the society are at loggerheads with each other, post the recent elections which have been held. There being groups of Office Bearers which have come into being, the said groups are inimical to each other in such a manner as they may cause physical harm and injury to the others. There being threats held out that, each group will break open the lock of the office of the society and take possession of the same. The respondents apprehending that there would be a breach of the peace have taken the action which has been impugned.

7.2. Her submission is that the actions taken by the respondents are *bona fide* in the interest of the petitioners, in the interest of Society and the



general public. Since any breach of peace in educational institutions run by the Malnad Technical Education Society would have an impact on the students, their families, teachers/professors and their families and the people working in the said society and the colleges.

7.3. Thus, she submits that the report which has been received is the reason for the issuance of notice under Section 126 of the BNSS 2023. It is for the petitioners to have come forward and made their position clear; they ought to have approached the respondent-Police by stating that they would not involve themselves in any criminal activities or in any activity which is likely to cause breach of peace. Instead, thereof, the petitioner approached this Court seeking for the aforesaid reliefs.



7.4. Her submission also is that, in the present case, a notice under Section 126 of the BNSS 2023 has been issued before passing an order under Section 130 of the BNSS 2023, so that the petitioners are put to notice of the said proceedings and in the event of the petitioners having accepted that they would not cause any harm or injury to the general public or public property, there would have been no requirement to pass an order under Section 130 of the BNSS 2023.

7.5. Her submission is that, if an order is passed under Section 130 of the BNSS 2023 and notice is issued under Section 126 of the BNSS 2023, the natural consequence of Section 131, 132, etc., would have to be followed and it is for that reason that the respondents issue a notice calling upon the noticee to make its position



clear to avoid the further process under Section 130, 131, 132 etc.

7.6. On the above basis, she submits that the petitioner could always approach respondent No.3 make its position clear undertake that they would not breach the peace as also not to cause any harm or injury to the general public or public property which would bring a closure to the matter.

8. Heard Sri.P.N.Manmohan., learned counsel appearing for the petition and Smt.K.P.Yashodha., learned AGA for respondents No.1 to 3 and perused papers.

9. The points that would arise for determination are;

1. In all cases, is a notice under Section 126 of the BNSS 2023 be required to be accompanied by an order under Section 130 of the BNSS 2023?

2. Whether in the said Order, the substance of the information received, the amount of the bond to be executed and the term for which it is required to be enforced, with the number of sureties to be required to be categorically detailed and the same



accompanied notice under Section 126 of the BNSS 2023?

- 3. Whether the requirement for the Magistrate to consider the cause shown by the noticee before any proceedings under Section 131 or 132 of the BNSS 2023 are undertaken, if so, under what provision?***
- 4. What is the nature of enquiry required to be held when a person who has issued a notice under Section 126 or Section 127 or Section 128 or Section 129 has replied to the show-cause notice?***
- 5. In the present case, whether the summons dated 30.09.2025 issued by respondent No.3 is proper, and correct?***
- 7. Whether the report of the police officer dated 30.08.2025 at Annexure-C and the consequent registration of Preventive Action Report No.79 of 2025 by the Taluk Magistrate, Hassan Taluk, Hassan District, is proper and correct?***
- 8. What Order?***

10. I answer above points are as under;

11. **Answer to point No.1: Whether in all cases, a notice under Section 126 of the BNSS 2023 is required to be accompanied by an order under Section 130 of the BNSS, 2023?**



11.1. Chapter IX of the BNS, 2023, deals with security for keeping the peace and for good behaviour. The said provisions in Chapter IX of the BNS, 2023, were earlier Sections 160, 107, 108, 109 and 110 of Chapter VIII of the Cr.P.C., respectively.

11.2. In Chapter IX Section 125 reads as under;

125. (1) *When a Court of Session or Court of a Magistrate of the first class convicts a person of any of the offences specified in sub-section (2) or of abetting any such offence and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding three years, as it thinks fit.*

(2) *The offences referred to in sub-section (1) are—*

(a) *any offence punishable under Chapter VIII of the Bharatiya Nyaya Sanhita, 2023, other than an offence punishable under section 191 or section 194 or section 195 thereof;*

(b) *any offence which consists of, or includes, assault or using criminal force or committing mischief;*

(c) *any offence of criminal intimidation;*

(d) *any other offence which caused, or was intended or known to be likely to cause, a breach of the peace.*

(3) *If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.*



(4) An order under this section may also be made by an Appellate Court or by a Court when exercising its powers of revision.

11.3. A perusal of Section 125 of the BNSS would indicate that the same relates to security for keeping peace on conviction, and as such, the same would not be attracted to the present matter.

11.4. Section 126 of the BNSS 2023 is reproduced hereunder for easy reference;

126. *(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.*

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act as aforesaid beyond such jurisdiction.



11.5. In terms of Section 126, an Executive Magistrate who receives information that any person is likely to commit a breach of peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of the opinion that there is sufficient ground for proceeding. He may in the manner provided in Chapter IX, require such person to show-cause why he should not be ordered to execute a bond or bail bond for keeping peace for such period not exceeding one year as the Magistrate may think of it.

11.6. In terms of Sub-section (2) of Section 126, proceedings could be initiated before any Executive Magistrate, either the place where the breach of peace or disturbance of peace is apprehended or within such jurisdiction of a person who is likely to commit a breach of



peace or disturb the public tranquility or to do any wrongful act beyond such jurisdiction.

11.7. Section 127 of the BNSS, 2023 is reproduced hereunder for easy reference;

127. (1) *When an Executive Magistrate receives information that there is within his local jurisdiction any person who, within or without such jurisdiction,—*

(i) either orally or in writing or in any other manner, intentionally disseminates or attempts to disseminate or abets the dissemination of,—

(a) any matter the publication of which is punishable under section 150 or section 194 or section 195 or section 297 of the Bhartiya Nyaya Sanhita, 2023, or

(b) any matter concerning a Judge acting or purporting to act in the discharge of his official duties which amounts to criminal intimidation or defamation under the Bhartiya Nyaya Sanhita, 2023,

(ii) makes, produces, publishes or keeps for sale, imports, exports, conveys,

sells, lets to hire, distributes, publicly exhibits or in any other manner puts into circulation any obscene matter such as is referred to in section 292 of the Bhartiya Nyaya Sanhita, 2023, and the Magistrate is of opinion that there is sufficient ground for proceeding, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

(2) No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Periodicals Act, 2023 with



reference to any matter contained in such publication except by the Order or under the authority of the State Government or some officer empowered by the State Government in this behalf.

11.8. Section 127 of the BNSS, 2023 deals with a situation where a person disseminates or attempts to disseminate or abets the dissemination of material punishable under Section 152 or Section 196 or 197 or Section 299 of the BNSS, 2023 and certain other matters which are not relevant or attracted in the present matter.

11.9. Section 128 of the BNSS, 2023 is reproduced hereunder for easy reference;

128. *When an Executive Magistrate receives information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognisable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.*



11.10. Section 128 of the BNSS, 2023 deals with a situation where the executive Magistrate receives information that, within his local jurisdiction, a person is taking precautions to conceal his presence with a view to committing a cognisable offence, the Magistrate can call upon such person to execute a bond or a bail bond.

11.11. Section 129 of the BNSS, 2023 is reproduced hereunder for easy reference;

129. *When an Executive Magistrate receives information that there is within his local jurisdiction a person who—*

(a) is by habit a robber, house-breaker, thief, or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property, or

(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Bhartiya Nyaya Sanhita, 2023, or under section 176, section 177, section 178 or section 179 of that Sanhita, or



(e) habitually commits, or attempts to commit, or abets the commission of, offences, involving a breach of the peace, or

(f) habitually commits, or attempts to commit, or abets the commission of—

(i) any offence under one or more of the following Acts, namely:—

(a) the Drugs and Cosmetics Act, 1940;

(b) the Foreigners Act, 1946;

(c) the Employees' Provident Fund and Miscellaneous Provisions Act, 1952;

(d) the Essential Commodities Act, 1955;

(e) the Protection of Civil Rights Act, 1955;

(f) the Customs Act, 1962;

(g) the Food Safety and Standards Act, 2006; or

(ii) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption, or

(g) is so desperate and dangerous to render his being at large without security hazardous to the community, such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.

11.12. A reading of Section 129 of the BNSS 2023 indicates that the same would be applicable to habitual offenders and the Magistrate may require such habitual offender as regards the



offences indicated under Section 129 of the BNSS 2023 to show-cause why he should not be ordered to execute a bail bond for his good behaviour for a period not exceeding three years, as the Magistrate thinks fit.

11.13. Section 130 of the BNSS Act 2023 is reproduced hereunder for easy reference;

130. *When a Magistrate acting under section 126, section 127, section 128 or section 129, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and the number of sureties, after considering the fitness for payment of sureties.*

11.14. A reading of Section 130 of the BNSS 2023 would indicate that the same would apply to any action taken under Section 126 or Section 127 or Section 128 or Section 129, and where the Magistrate were to act under those provisions, deems it necessary to require any person to show-cause under any of the said sections, he shall make an order in writing



setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be enforced, and the number of sureties after considering the sufficiency and fitness of the sureties. Thus, before initiating any action under Section 126 or Section 127 or Section 128 or Section 129 of the BNSS 2023, an order under Section 130 of the BNSS 2023 is a prerequisite or a precondition. That is to say, without an order being passed under Section 130 of the BNSS 2023, no summons or the like would be issued under Section 126 or Section 127 or Section 128 or Section 129.

11.15. ***Thus, I answer point No.1 by holding that before a show-cause notice under Section 126 or Section 127 or Section 128 or Section 129 is issued to the noticee to show-cause why he should not be ordered***



to execute a bond or bail bond for keeping the peace for such period as contended in any of those provisions. It is required that an order under Section 130 of the BNSS 2023 is passed by the Executive Magistrate in writing setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force and number of sureties after considering the sufficiency and fitness of sureties.

11.16. Needless to say, without an order being passed under Section 130 of the BNSS 2023, no show-cause notice under Section 126 or Section 127 or Section 128 or Section 129 can be issued by the Executive Magistrate.

12. Answer to point No.2; What is the manner of serving notice, summons/warrant once an Order is passed under Section 130?



12.1. If a show-cause notice under Section 126 of the BNSS 2023 is issued, accompanied by an order under Section 130 of the BNSS 2023 on a person who is present in Court, then Section 131 of the BNSS Act, 2023 would apply, which reads as follows;

***131.** If the person in respect of whom such Order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.*

12.2. A perusal of Section 131 of the BNSS 2023 would indicate that, if the person in respect of whom orders are passed under Section 130 of the BNSS 2023 is present in Court, it shall be read over to him and if he so desires, the substance thereof shall be explained to him.

12.3. In the event of the said noticee not being present in Court, under Section 132 of the BNSS 2023, summons or warrant could be issued to such a person. Section 132 of the



BNSS, Act 2023 is reproduced hereunder for easy reference;

***132.** If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the Officer in whose custody he is to bring him before the Court:*

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate Arrest of such person, the Magistrate may at any time issue a warrant for his Arrest.

12.4. A perusal of Section 132 of the BNSS 2023 would indicate, that if such a person is not present in the Court, the Magistrate shall issue a summons requiring him to appear or when such a person is in custody a warrant directing the Officer in whose custody he is to bring him before the Court.

12.5. The proviso to Section 132 of the BNSS 2023 provides for a situation where it appears to such Magistrate upon the report of a police



officer or upon other information, the substance of which report or information shall be recorded by the Magistrate that there is reason to fear the commission of breach of peace and that such breach of peace cannot be prevented, otherwise than by the immediate Arrest of such person, the Magistrate may at any time issue a warrant for his Arrest.

12.6. Thus, Section 132 of the BNSS 2023 provides for summons and/or warrant being required to be issued to a noticee under Section 126 or Section 127 or Section 128 or Section 129, depending on whether the noticee is present in Court or not, is in custody or not, or if there is an apprehension of immediate commission of any offence.

12.7. Section 133 of the BNSS Act, 2023 is reproduced hereunder for easy reference;

133. *Every summons or warrant issued under section 132 shall be accompanied by a copy of the Order made*



under section 130, and such copy shall be delivered by the Officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

12.8. A perusal of Section 133 of the BNSS 2023 would indicate that every summons or warrant issued under Section 132 of the BNSS 2023 shall be accompanied by a copy of the Order made under Section 130 of the BNSS 2023 and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

12.9. In terms of Section 134 of the BNSS 2023, there is a power vested with the Magistrate to dispense with the personal attendance of any person who has been called to show-cause and may permit him to appear through an advocate.

12.10. Thus, a notice under Section 126 or Section 127 or Section 128 or Section 129 would be



required to be accompanied by an order under Section 130 of the BNSS 2023 and the same can be served on a person present in Court by providing a copy thereof in Court under Section 131 of the BNSS 2023 or otherwise under Section 132 of the BNSS 2023 by issuing summons requiring him to appear or when such person is in custody, a warrant directing the Officer in whose custody he is to bring him before the Court or when there is an immediate threat of commission of offence.

12.11. If the copy of the show-cause notice under Section 126 of the BNSS 2023 has been issued under Section 131 of the BNSS 2023, then necessarily the copy of the Order under Section 130 of the BNSS 2023 would have to be furnished.

12.12. If the person is not present in Court, then the procedure under Section 133 of the BNSS 2023



is required to be followed, with every summons or warrant issued to be accompanied by a copy of the Order under Section 130 of the BNSS 2023.

- 12.13. The Magistrate would, however, have the power to dispense with the personal attendance and permit an advocate to appear on behalf of the noticee if such a request is made by considering the relevant facts of the matter.
- 12.14. Thus, the procedure under Sections 131 to 134 of the BNSS Act, 2023 deals with service of summons, serving of show-cause notice, summons and/or warrant.
13. **Answer to point No.4: What is the nature of enquiry required to be held when a person who has issued a notice under Section 126 or Section 127 or Section 128 or Section 129 has replied to the show-cause notice?**

13.1. Section 135 of the BNSS 2023 deals with the enquiry to be conducted under Chapter IX of the BNSS Act, 2023. Section 135 of the BNSS,



Act, 2023 is reproduced hereunder for easy reference;

135. (1) *When an order under section 130 has been read or explained under section 131 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 132, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.*

(2) *Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons-cases.*

(3) *After the commencement, and before the completion, of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the Order under section 130 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:*

Provided that—

(a) no person against whom proceedings are not being taken under section 127, section 128, or section 129 shall be directed to execute a bond for maintaining good behaviour;



(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the Order under section 130.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt within the same or separate inquiries as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings the Sessions Judge may, on an application made to him by the aggrieved party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

13.2. If an order under Section 130 of the BNSS 2023 has been read or explained under Section



131 of the BNSS, 2023 to a person present in Court or when any person appears or is brought before the Magistrate in compliance with or in execution of a summons or warrant issued under Section 132 of the BNSS, 2023 and a reply has been issued and whether a reply has been issued or not, the Magistrate is duty bound to enquire into the truth of the information upon which action has been taken and to take such further evidence as may appear necessarily.

13.3. Thus, the procedure that is required to be followed for conducting a trial and recording evidence is that as in a summons case in terms of Sub-section (2) of Section 135 of the BNSS 2023.

13.4. In the event of the Magistrate during the conducting of the trial or recording of evidence, were to be of the opinion that immediate



measures are necessary for prevention of breach of peace or disturbance of public tranquility, or the commission of any offence or for the public safety, may for reasons to be recorded in writing, direct the person in respect of whom the Order under Section 130 of the BNSS 2023 has been made to execute a bond or a bail bond for keeping the peace or maintaining good behaviour until the conclusion of the enquiry, and may detain such person in custody, until such bond or bail bond is executed or in default of execution until the enquiry is concluded. This being in terms of Sub-section (3) of Section 135 of the BNSS 2023.

13.5. The proviso to Sub-section (3) of the BNSS 2023 provides that no person against whom proceedings are not being taken under, Section 127, Section 128 or Section 129 shall be



directed to execute a bond or bail bond for maintaining good behaviour and that the condition of such bond shall not be more onerous than that prescribed in the Order passed under Section 130 of the BNSS 2023.

13.6. In terms of Sub-section (6) of Section 135 of the BNSS 2023, the enquiry is required to be completed within a period of six months from the date of its commencement, and if such enquiry is not so completed on the expiry of the said period, the said proceedings shall stand automatically terminated, unless for special reasons to be recorded in writing, the Magistrate otherwise directs. In the unlikely event of the person being detained for a period of six months, then the proceedings, if not completed by then, shall stand terminated.

13.7. After completion of the enquiry under Section 135 of the BNSS, 2023, an order under Section



136 of the BNSS, 2023 is required to be passed and if during the enquiry it is proved that it is necessary for keeping the peace and maintaining good behaviour, that the person against whom an enquiry is made should execute a bond or bail bond, the Magistrate shall make an order accordingly.

13.8. Section 136 of the BNSS Act, 2023 is reproduced hereunder for easy reference;

136. *If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:*

Provided that—

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the Order made under section 130;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.



13.9.If on enquiry it is found that it is not necessary for keeping the peace or maintaining good behaviour for the person to execute a bond, the Magistrate is required to make an entry on the record to that effect in terms of Section 137 of the BNSS Act, 2023, which is reproduced hereunder for easy reference;

137. If, on an inquiry under section 135, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

13.10. Section 138, Section 140, Section 141, Section 142 and Section 143 of the BNSS 2023 provide for certain other aspects which are not germane to the present matter.

13.11. ***On the basis of the above, I answer point No.4 by holding that an enquiry as to the truth of the information received by the***



Magistrate is to be conducted in terms of Section 135 of the BNSS 2023 by following the procedure prescribed for conducting trial and recording evidence in a summons case, which proceedings shall be completed within a period of six months unless otherwise extended by the Magistrate for reasons recorded in writing, subject however to the condition that if the noticee has been in custody for a period of six months the said proceedings will come to an automatic end.

13.12. If on enquiry it is found that the security is required to be made available, an order under Section 136 of the BNSS 2023 would be required to be passed. If no security is required to be issued, an order under Section 137 of the BNSS 2023 discharging the person is required to be passed.



14. **Answer to point No.5: In the present case, whether the summons dated 30.09.2025 issued by respondent No.3 is proper and correct?**

14.1. In the present case, as rightly contended by Sri.P.N.Manmohan., learned counsel for the petitioner, Respondent No.3-Executive Magistrate has issued only a show-cause notice said to be under Section 126 of the BNSS 2023, without an order under Section 130 of the BNSS 2023 accompanying the said notice.

14.2. Therefore, in view of an answer to point No.1 to 3 above, the said notice does not fulfil the requirement of Chapter IX, inasmuch as when any notice for show-cause is issued under Section 126 or Section 127 or Section 128 or Section 129 of the BNSS 2023, the same is required to be accompanied by an order under Section 130 of the BNSS 2023. For the purpose of service of summons, the procedure under



Section 131, Section 132 and Section 133 of the BNSS 2023 are required to be followed.

14.3. ***None of them having been done, I answer point No.5 by holding that, the notice/summons which has been issued by the respondent No.3 to the petitioners in the present matter is not in compliance with the requirements of the various provisions under Chapter IX of the BNSS more particularly Section 126, Section 130, Section 131, Section 132 of the BNSS 2023.***

15. ***Answer to point No.6: Whether the report of the police officer dated 30.08.2025 at Annexure-C and the consequent registration of Preventive Action Report No.79 of 2025 by the Taluk Magistrate, Hassan Taluk, Hassan District is proper and correct?***

15.1. Though it is sought to be contended by Sri.P.N.Manmohan., learned counsel for the petitioner that the report dated 30.08.2025



filed by respondent No.2 is required to be quashed, I am of the considered opinion that a report which has been furnished by the police officer cannot be quashed by this Court, the same being as per the alleged factual position. Once the Report is received, it is required of the Executive Magistrate to consider the same in terms of Section 130 of the BNSS 2023 and pass necessary orders on the same.

15.2.I would however like to caveat this by categorically stating that merely because the report is received by any Executive Magistrate from a police officer the proceedings under Chapter XI are not required to be resorted to. It is for the Magistrate to apply his mind assess the material which has been submitted and if, being of the opinion that there is a possibility of breach of peace or disturbance of public tranquility or any wrongful act would be caused



by the person or persons against whom the report has been submitted. It is only then that a preventive action report is required to be registered and the proceedings and procedure under Section 126, Section 130, Section 131, Section 132, Section 133, Section 132 of the BNSS 2023 where applicable are required to be resorted to.

15.3. Thus, I answer point No.7 by holding that the report of the police officer dated 30.08.2025 cannot be quashed. However, the registration of the Preventive Action Report is required to be quashed, since there is nothing on record which indicates application of mind on part of the Executive Magistrate by appreciating the report received that a Preventive Action Report was required to be registered and



***proceedings under Section 130 of the
BNSS 2023 be required to be taken up.***

16. **Answer to point No.8; What order?**

16.1. In view of my answers to the above points, I
pass the following;

ORDER

- i. Writ petition is ***partly-allowed.***
- ii. A certiorari is issued, the summons dated 03.09.2025 issued by respondent No.3 at Annexure-E and F are quashed.
- iii. A certiorari is issued, the registration of the Preventive Action Report No.79 of 2025 by respondent No.1 at Annexure-D is quashed.
- iv. The matter is remitted to respondent No.3 to consider the report submitted by respondent No.2, to apply his mind and thereafter make a decision as to whether an Order under Section 130 of the BNSS



2023 is required to be passed and thereafter proceed with the matter in accordance with law.

- v. Needless to say that, if respondent No.3- Executive Magistrate were to come to a conclusion that there are no grounds or material available for passing an order under Section 130 of the BNSS 2023, the Executive Magistrate would have to close the report received from respondent No.2.

**SD/-
(SURAJ GOVINDARAJ)
JUDGE**

SR
List No.: 3 Sl No.: 2