

KAMS010082552025



IN THE COURT OF THE IV ADDL. DISTRICT & SESSIONS
JUDGE: MYSURU.

DATED THIS THE 08th DAY OF May 2026

PRESENT

SRI. P.J.SOMASHEKAR, B.A.,L.L.M.,
IV ADDL. DISTRICT & SESSIONS JUDGE:
MYSURU.

CrI.R.P./198/2025

Petitioner:

1. Sri Nayaj S/o Anwer Sab,
Aged about 42 years,
2. Imran S/o Syed Afsar,
Aged about 27 years,
3. Khaleel Ahmed S/o Late Nazir,
Aged about 39 years,

All are residing at:
No.Shariff colony,
Padukote village,
H.D.Kote taluk,
Mysuru district .

(By Sri Mahesha.S.K Adv.,)

Versus

Respondents :

1. Tahasildar and Taluk Executive
Magistrate,
H.D.Kote taluk,
Mysuru district.

2. Sub Inspector of Police,
H.D.Kote Police Station,
Mysuru district.

(By learned Public Prosecutor)

ORDERS

This is a criminal Revision Petition U/Sec.438 R/w 440 of BNSS. filed by the Petitioners and sought for to set aside the impugned order passed by the 1st respondent in MAG, CR:96/2025-26 dated 21.10.2025.

2. Nut shell of the Petition are as under:

The learned counsel for the petitioners in the petition has alleged that the respondent No.1 has passed impugned order under Section 130 of BNSS and initiate the proceedings under Section 126 of BNSS in in MAG, CR: 96/2025-26 dated 21.10.2025 directing the petitioners to appear on 28.10.2025 and execute a bond to maintain peace and tranquility in the Village stating that the land bearing re-sy.No.1 measuring 4 acres 8 guntas of Padukote Kaval, Kasaba Hobli, H.D.Kote taluk has been granted in favour of Archana D/o Ramachandra and the RTC standing in her name and in very

survey number 4 acre land house been granted in the name of Archana W/o Nagamurthy in total 8 acres 8 guntas has been granted in her favour. One Nayaz, Apser, Asmal, Imbran, Intiaz, Syed Maqbal and others were claiming the block No.1/686 and block No.1/687 measuring 8 acres belongs to them and took up the quarrel in connection of the same. So, PSI visited the spot and came to know that both parties were claiming same property and there is an likely to commit breach of the peace and disturb the public tranquility by wrongful act and it may causes public property thereby the PSI, H.D.Kote Police Station to maintain the peace and tranquility in the society registered the case in their police station P.R.No.2/2025 for the offence punishable under Section 126 of BNSS, 2023 and submitted the same to the 1st respondent and the 1st respondent has initiated the proceedings under Section 126 of BNSS. So, feeling aggrieved by the said order filed the instant petition on the following :-

::GROUNDS::

1. The order passed by the Tahasildar and taluk executive Magistrate is not maintainable either in law or on facts which is liable to be set-aside.
2. Issuance of a preliminary notice by the 1st respondent it means misconception of facts and the petitioners are residing in the address as mentioned in the cause title.
3. The petitioners never committed any disturbance of peace or public tranquility in the village and the averments noted in the order itself discloses the order passed is not in accordance with law.
4. There is a dispute in respect of the immovable property and the 1st respondent ought to have initiate proceedings under Section 164 of BNSS not under Section 126 of BNSS.

5. The 2nd respondent with a malafide a intention protecting the rivalry persons opponent of the respondent reportedly falsely to initiate wrong proceedings against the petitioners in order to cause inconvenience.
6. The order passed by the 1st respondent directing to execute the bond is highly exorbitant and the petitioners are agriculturists and the stage of harvesting if they are allowing to visit the 1st respondent office there is a likelihood of loosing their life earnings and prays for allow the petition.
3. In response to the notice, the respondents were appeared through learned Public Prosecutor.
4. Heard the arguments on both side.
5. The points that arise for court consideration are as under:

1. Whether the petitioners have made out that there is irregularity in issuing a notice U/s 126 of BNSS in MAG, CR: 96/2025-26 dated 21.10.2025 ?

2. What order?

6. My answer to the above points are as under:

Point No.1: In the **Affirmative.**

Point No.2: As per final order for the following:

::REASONS::

7. **Points 1** : Before embarking on this point, it is just and necessary to narrate the gist of the case for the proper appreciation of this point No.1 as the Petitioners are the resident of Sharif colony, Padukote village H.D.Kote taluk the land bearing re-sy.No.1 measuring 4 acres 8 guntas of Padukote Kaval, Kasaba Hobli, H.D.Kote taluk has been granted in favour of Archana D/o Ramachandra and the RTC standing in her name and in very survey number 4 acre land house been granted in the name of Archana W/o Nagamurthy in total 8 acres 8 guntas has been granted in her favour. One Nayaz, Apser, Asmal, Imbran, Intiaz, Syed

Maqbal and others were claiming the block No.1/686 and block No.1/687 measuring 8 acres belongs to them and took up the quarrel in connection of the same. So, PSI visited the spot and came to know that both parties were claiming same property and there is an likely to commit breach of the peace and disturb the public tranquility by wrongful act and it may causes public property thereby the PSI, H.D.Kote Police Station to maintain the peace and tranquility in the society registered the case in their police station P.R.No.2/2025 for the offence punishable under Section 126 of BNSS, 2023. So there is a chances of disturbing of public peace and tranquility and damaging of public property upon report has issued a notice and passed the orders. Thereby, the Petitioners were filed the instant petition.

8. The learned counsel for the petitioners in the arguments has submitted though civil suit is pending in between the Petitioners and the complainant before the Court of law, but false notice has been issued to the Petitioners which is not in accordance with law and the

Respondent No.1 before passing the orders nor the notice has not complied the mandatory provisions that itself is clear the Respondent passed the orders mechanically which is not in accordance with law and prays for allow the petition and set-aside the orders passed by the Respondent No.1.

9. Per contra the learned Public Prosecutor in her arguments has submitted that the petition is not maintainable in law or on facts and the PSI of H.D.Kote Police Station received the credible information regarding the public nuisance and tranquility in the Village, thereby registered PR No.2/2025 and submitted the report against the Petitioners and in pursuance of the report, the respondent No.1 has issued a notice, calling upon the petitioners to appear before him and there is no irregularity in the proceedings initiated against the petitioners. Unless established the irregularities by the petitioners, question of setting aside the notice issued by the 1st respondent, does not arise and prays for reject the petition.

10. It is an admitted fact the petitioners have come up with the instant petition on the ground that the respondent erred in issuing a notice. Thus, before considering the materials on record and the arguments which advanced by the learned Public Prosecutor, it is just and necessary to know the legal aspects first for the proper appreciation. Thus this court drawn its attention on Sec.126 of BNSS, 2023 which reads like thus:

“When an Executive Magistrate receives information that any 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 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 or bail bond 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 tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.”

11. The above provision is very much clear an Executive Magistrate receives information that any 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

tranquility and is of opinion that there is sufficient ground for proceeding against the persons against whom a report has been filed and directing them to execute a bond for keeping the peace for such period, not exceeding one year. Thus this court drawn its attention on Sec.108 of Cr.P.C. which reads like thus:

"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; ii)any matter the publication of which is punishable under section [124A](#) or section [153A](#) or section [153B](#) or

**section [295A](#) of the Indian Penal Code (45 of 1860), or
III) 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 Indian Penal Code.**

12. The above provision is very much clear when an Executive Magistrate receives information that there is within his local jurisdiction any person who, within or without such jurisdiction either orally or in writing or in any other manner, attempting to destroy peace and tranquility to initiate proceedings, it should not exceed for one year for taking bond.

13. So, the provisions which referred above are very much clear whenever acting U/s 126 of BNSS. receives information if satisfied that there is breach of peace or disturbance to public tranquility or to do any wrongful act

that may probable occasion a breach of peace or disturb the public tranquility and is of the opinion that there is sufficient ground for proceeding he may in the manner provided require such person to show cause why he should not be ordered to execute a bond that for without keeping peace for such period not exceeding one year as the Magistrate thinks fit.

14. In the instant case, if the order passed by the respondent which on record reflects that the respondent passed the orders on 11.04.2022 as per Sec. 111 of Cr.P.C. in which has stated the substance of the information which he received and the notice U/s 107 of Cr.P.C. accompanying the orders as the provision which referred above is the obligatory duty on the part of the respondent to pass preliminary order in writing setting forth the substance of the information received, amount of bond to be contributed, the term for which it is to be in force, number, the character and class of sureties if any required after he had formed an opinion as contemplated U/s 126 of BNSS. So whenever the notice issued U/s 126 of BNSS. it shall be accompanied by

the order passed by the respondent. The materials on record reflects the notice has been issued by the respondent on 04.11.2025 U/s 126 of BNSS., in which has stated that there is a possibility of disturbing the peace and tranquility in the Village and directing the Petitioners to execute the bond to maintain peace and tranquility, but the order has not been complied as per the provisions which stated supra. Therefore, it is clear, that the Respondent No.1 while passing the orders U/Sec. 111 of Cr.P.C. has not followed the mandatory provisions. On this ground alone the order passed by the Respondent is not maintainable which is deserved for set-aside. Hence, I am of the opinion that ***point No.1 is answered in the Affirmative.***

15. **Point No.2:** In view of my discussion on point No.1, I proceed to pass the following:

::O R D E R::

The Petition filed U/Sec.397 of Cr.P.C. by the Petitioners is hereby
Allowed.

The Order passed by the
Respondent in No.MAG CR,96/2025-26
dated 21.10.2025, is hereby ***Set-aside***.

Office is hereby directed to send
the entire record with copy of this order
to the court below forthwith.

(Dictated to the Typist directly on Computer, corrected and then pronounced by me in the
Open Court, on this the **08th day of May, 2026**)

(P.J. Somashekar)
IV Addl. District & Sessions Judge,
Mysuru.