

**IN THE HIGH COURT OF ORISSA AT CUTTACK****CRLMC No.1410 of 2026**

(In the matter of a petition under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023).

Sumitra Dhal & Ors. *Petitioner (s)*

-versus-

State of Odisha *Opposite Party (s)*

Advocates appeared in this case through Hybrid Arrangement Mode:

For Petitioner (s) : *Mr. Sukanta Kumar Nayak, Adv.*

For Opp. Party(s) : *Mr. Tej Kumar, ASC*

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING: -20.05.2026

DATE OF JUDGMENT: -25.06.2026

Dr. Sanjeeb K Panigrahi, J.

1. The petitioners, in the present petition, seek quashing of the proceeding in Criminal Misc. Case No. 84 of 2026, initiated under Section 126 of the BNSS by the learned Executive Magistrate, Tihidi, against them.

I. FACTUAL MATRIX:

2. The petitioners received a show-cause notice dated 14.04.2026 issued by the learned Executive Magistrate, Tihidi.

3. Upon receipt of the said notice, the petitioners came to know that Criminal Misc. Case No. 84 of 2026 had been initiated against them



under Section 126 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the learned Executive Magistrate, Tihidi, on the basis of information received from the I.I.C., Tihidi Police Station.

4. The said notice indicated that, on the basis of the aforesaid information, a proceeding under Section 126 of the BNSS had been initiated against the petitioners for keeping peace and tranquillity in the locality.
5. The petitioners were directed to submit their show-cause reply and appear on 07.05.2026 as to why they should not be ordered to execute a bond of Rs. 5,000/- each with one local surety for the like amount for keeping peace and tranquillity in the locality for a period of one year.

II. SUBMISSIONS OF THE PETITIONERS:

6. Learned counsel for the petitioners made the following submissions in support of his contentions:
 - i. The petitioners submitted that as per Section 130 of the BNSS, the learned Magistrate is required to mention the substance of the information received while issuing a show-cause notice. However, in the present case, the show-cause notice does not disclose the substance of the information on the basis of which the proceeding has been initiated. As a result, the petitioners are unable to effectively submit their reply to the said show-cause notice.
 - ii. The petitioners asserted that it is a settled principle of law that the learned Magistrate is under a duty to conduct some enquiry so as to



be satisfied with the material existing regarding the necessity of proceeding under Section 126 of the BNSS. However, the same having not been done by the learned Executive Magistrate, Tihidi, the proceeding has been initiated without competency.

- iii. The petitioners asserted that in the show-cause notice, the learned Executive Magistrate, Tihidi has neither given any opinion that there is sufficient ground to believe that the petitioners, who are alleged delinquents, are disturbing or creating a law and order situation in the locality, nor has the substance of the information been disclosed, which is mandatory under Section 126 read with Section 130 of the BNSS.
- iv. The petitioners asserted that they are innocent persons and are in no way connected with any other cases.
- v. The petitioners further asserted that it is necessary in the interest of justice that this Court be pleased to quash the show-cause notice issued by the learned Executive Magistrate, Tihidi in Criminal Misc. Case No. 84 of 2026.
- vi. In order to buttress their arguments, the petitioners placed reliance on the observations of the Supreme Court in *Madhu Limaye & Others v. Sub-Divisional Magistrate, Monghyr & Others*¹.

¹ (1970) 3 SCC 746.



III. SUBMISSIONS OF THE OPPOSITE PARTIES:

7. Per contra, learned counsel for the opposite parties made the following submissions in support of his contentions:
- i. It was submitted that the proceeding under Section 126 of the BNSS has been initiated by the learned Executive Magistrate, Tihidi upon receipt of information from the I.I.C., Tihidi Police Station regarding apprehension of breach of peace, disturbance of public tranquillity, and likelihood of law and order situation in the locality involving the present petitioners.
 - ii. It was submitted that the learned Executive Magistrate, Tihidi, being the competent authority under the BNSS, has exercised jurisdiction lawfully and within the scope of powers vested under the statute. It was further submitted that the object of proceedings under Section 126 of the BNSS is preventive in nature and is intended to maintain peace, public tranquillity, and prevent any likelihood of disturbance in the locality.
 - iii. It was submitted that mere issuance of the show-cause notice does not ipso facto cause any prejudice to the petitioners so as to warrant interference by this Court in exercise of its inherent jurisdiction. It was further submitted that the petitioners have adequate opportunity before the learned Executive Magistrate to appear, file their explanation, place relevant materials, and contest the proceeding in accordance with law.



- iv. It was submitted that the allegations raised by the petitioners regarding non-disclosure of sufficient particulars are matters which can be appropriately urged before the learned Executive Magistrate during the course of the proceedings itself, and that the very object of issuance of the show-cause notice is to provide an opportunity to the petitioners to appear before the learned Executive Magistrate and place their explanation and objections before the authority concerned.
- v. It was submitted that the challenge to a mere show-cause notice at the nascent stage of the proceedings, without exhausting the statutory remedy and opportunity available before the learned Executive Magistrate, is premature in nature and contrary to the settled principles governing exercise of inherent jurisdiction.
- vi. It was submitted that such premature invocation of the jurisdiction of this Court against a show-cause notice, which neither determines the rights of the parties nor imposes any civil or criminal consequences, cannot be sustained in the eye of law.
- vii. It was submitted that it is a settled proposition of law that inherent jurisdiction is to be exercised sparingly and ordinarily this Court does not interfere at the stage of issuance of show-cause notice unless the same is wholly without jurisdiction or amounts to abuse of the process of law.



- viii. Reliance was placed upon the judgments of the Supreme Court in *Union of India v. Kunisetty Satyanarayana*², *Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh*³, *Special Director v. Mohd. Ghulam Ghouse*⁴, and *Union of India v. Vicco Laboratories*⁵, wherein it has been consistently held that writ jurisdiction should not ordinarily be exercised at the stage of issuance of a show-cause notice unless the same is shown to be without jurisdiction or an abuse of process of law, and that the proper course is to respond to the notice and participate in the proceedings before the competent authority.
- ix. It was further submitted that in the present case, the petitioners have failed to establish any jurisdictional error, mala fide exercise of power, or abuse of the process of law in the initiation of the proceeding under Section 126 of the BNSS, and that the proceeding has been initiated upon a police report and on the subjective satisfaction of the learned Executive Magistrate for preservation of peace and public tranquillity in the locality. It was further submitted that in the absence of any manifest illegality or abuse of process of law, the present CRLMC, being devoid of merit, is liable to be dismissed.

IV. COURT'S REASONING AND ANALYSIS:

8. Heard learned counsel for the parties and perused the material on record.

² (2006) 12 SCC 28.

³ (1996) 1 SCC 327

⁴ (2004) 3 SCC 440.

⁵ (2007) 13 SCC 270.



9. The present challenge is directed against the initiation of proceedings under Section 126 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the consequential show-cause notice issued by the learned Executive Magistrate, Tihidi.
10. The principal contention advanced on behalf of the petitioners is that the impugned notice is vitiated for non-compliance with Section 130 of the BNSS as it does not disclose the substance of the information received, and therefore reflects non-application of mind at the stage of initiation itself. It is further contended that the notice is mechanical in nature and does not indicate any material justifying apprehension of breach of peace.
11. Before examining the rival submissions, it is necessary to note that proceedings under Section 126 BNSS are preventive in character and are founded on the subjective discretion of the Executive Magistrate based on information received regarding apprehended breach of peace or disturbance of public tranquillity. Such discretion must be preceded by minimal compliance with statutory safeguards, including setting forth the substance of the information under Section 130 of the BNSS.
12. Section 130 of the BNSS mandates that before calling upon a person to show cause under Section 126, the Magistrate shall set forth in writing the substance of the information received. The requirement is intended to disclose the basic grounds on which preventive action is



considered necessary. The provisions are replicated hereinunder for reference:

“126. 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 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.”

“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.”

13. In **Madhu Limaye (supra)**, it was observed that since the person against whom proceedings are sought to be initiated is required to show cause, it is but natural that he must be made aware of the grounds for apprehending a breach of peace or disturbance of public



tranquillity at his hands. Although the provision speaks of the “substance of the information”, it does not mean that the order should not be comprehensive. The order need not reproduce the information verbatim; however, it must give proper notice of what moved the Magistrate to initiate the proceedings. Such an order forms the foundation of the jurisdiction, and the expression “substance” signifies the essence or the most material parts of the information received.

14. In the present case, a bare reading of the impugned notice reveals that it merely states that information has been received regarding a “law and order situation in the locality” and that proceedings are initiated for “keeping peace and tranquillity in the locality”, followed by a direction to show cause as to why a bond should not be executed. However, the notice does not disclose even in summary form the substance of the information received, the nature of alleged incidents, or any basic factual foundation leading to apprehension of breach of peace.
15. The absence of such foundational disclosure goes beyond a mere issue of sufficiency or elaboration of details. It reflects non-compliance with the statutory requirement under Section 130 BNSS, which forms the basis for assumption of jurisdiction under Section 126 BNSS. A mechanical reproduction of the statutory language without disclosure of the underlying substance of information defeats the purpose of the



provision and deprives the noticee of a meaningful opportunity of representation.

16. In the facts of the present case, this Court finds that the impugned notice fails to satisfy the minimum statutory threshold under Section 130 BNSS, as no substance of information has been set forth and the impugned notice does not disclose any basic factual foundation for the apprehension recorded. Consequently, the initiation of proceedings under Section 126 BNSS cannot be sustained in law.
17. Accordingly, this Court is of the considered view that the impugned proceeding warrants interference at the threshold.

V. CONCLUSION:

18. In view of the foregoing analysis, the CRLMC is **allowed**.
19. The proceeding in Criminal Misc. Case No. 84 of 2026 initiated under Section 126 BNSS by the learned Executive Magistrate, Tihidi, as well as the consequential show-cause notice, are hereby quashed.
20. It is, however, made clear that this Court has not expressed any opinion on the merits of the allegations, and it shall be open to the authorities to proceed in accordance with law if so advised, after due compliance with statutory requirements.
21. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 25th June, 2026 /*