

THE HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.8544 OF 2022

ORDER:-

1. Heard the submission of the learned counsel for the petitioners as well as the learned Assistant Public Prosecutor representing Respondent No.1.
2. In the light of the limited request made, issuance of notice to Respondent No.2 is felt not required.
3. Seeking the Court to quash the proceedings that are pending against the petitioners who are arrayed as Accused Nos.1 & 3 in Crime No.304 of 2022 of Yacharam Police Station, the present Criminal Petition is filed.
4. Learned counsel for the petitioners submits that the petitioners have not committed any offences whatsoever and indeed, as per the version of the 2nd respondent, the incident occurred at his house. Learned counsel states that neither the abusation nor the incident as narrated in the complaint have taken place. However, learned counsel finally states that police are trying to arrest the petitioners arbitrarily and therefore, no further orders are required in

this Criminal petition, except to protect the petitioners from arbitrary arrest.

5. Learned Assistant Public Prosecutor did not raise any objection for grant of such relief.

6. Thus, having regard to the submissions made and keeping in view the facts and circumstances of the case, the Criminal Petition is disposed of with the following directions:

- (i) The Station House Officer, Yacharam Police Station/Investigating Officer, shall not effect arrest of the petitioners/Accused Nos.1 & 3 without following the procedure established by law.
- (ii) The Station House Officer, Yacharam Police Station/Investigating Officer, shall adhere to the requirement to follow Section 41-A Cr.P.C except under the circumstances mentioned under Sections 41(1) and 41-A (4) Cr.P.C.
- (iii) The guidelines issued by the Hon'ble Apex Court in ***Arnesh Kumar Vs. State of Bihar***¹ shall be followed.
- (iv) The Station House Officer, Yacharam Police Station/Investigating Officer, shall not insist upon the personal appearance of the

¹(2014) 8 SCC 273

petitioners/Accused Nos.1 & 3 during the course of investigation, except where their personal appearance is required.

- (v) In case the personal appearance of the petitioners/Accused Nos.1 & 3 is required, the same shall be communicated to them in writing indicating the reasons for which their personal appearance is sought.
- (vi) However, it is made clear that the Investigation may go on.
- (vii) That the petitioners/Accused Nos.1 & 3 shall cooperate with the police during the process of investigation.

7. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

Dr.JUSTICE CHILLAKUR SUMALATHA

Dt.21.09.2022

Note:- Issue CC by one week.

B/o.ysk

THE HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.8544 OF 2022

Dt.21.09.2022

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HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**MAIN CASE No:CRL.P.No.7182 of 2022****PROCEEDING SHEET**

Sl. No.	DATE	ORDER	OFFICE NOTE
1.	10.08.2022	<u>Dr.CSL,J</u> <u>CRL.P.No.7114 of 2022</u> Heard the submission of the learned counsel for the petitioners. Learned counsel for the petitioners submit that despite of an order from this Court in W.P.No.31142 of 2022 and registration of deed of adoption, a false case is registered against the petitioners and therefore, the petitioners approached this Court for quash of proceedings. In the light of the said submission, the Criminal Petition is admitted. Learned Assistant Public Prosecutor waives notice for Respondent No.1 Issue notice to Respondent No.2 through Court process. List on 19.10.2022. <u>Dr.CSL,J</u> <u>I.A.No.1 of 2022</u> This is an application filed seeking the Court to stay all further proceedings in Crime No.132 of	Tr. to IO folder before corr.

		2022 of Veenavanka Police Station, Karimnagar District. contd...2 -2- Learned counsel for the petitioners submits that the child in question was given in adoption through valid means. But a false case is foisted against the petitioners and in case the petitioners are arrested, the petitioners would be put to serious hardship. Learned counsel seeks indulgence of this Court to direct the police to follow the procedure established under law. Learned Assistant Public Prosecutor did not raise any objection. Therefore, the present Interlocutory Application is disposed of with the following directions:- (1) The Station House Officer, Veenavanka Police Station, shall not effect arrest of the petitioners/Accused Nos.1 to 3 without following the procedure established by law. (2) The Station House Officer, Veenavanka Police Station/Investigating Officer shall adhere to the requirement to follow Section 41-A Cr.P.C, except under the circumstances mentioned under Sections 41(1) and 41-A (4) Cr.P.C. (3) The guidelines issued by the Hon'ble Apex Court	
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		in <i>Arnesh Kumar Vs. State of Bihar</i>² shall be followed. (4) The Station House Officer/Investigating Officer shall not insist upon the personal appearance of the petitioners/Accused Nos.1 to 3 during the contd...3 -3- course of investigation, except where their personal appearance is required. (5) In case the personal appearance of the petitioners/Accused Nos.1 to 3 is required, the same shall be communicated to them in writing indicating the reasons for which their personal appearance is sought. (6) However, it is made clear that the Investigation may go on. (7) That the petitioners/Accused Nos.1 to 3 shall cooperate with the police during the process of investigation. Dr.CSL,J ysk	
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² (2014) 8 SCC 273

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