

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE DR. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION NO: 9446 OF 2022

Between:

1. Mohd Abdul Khaaleq @ Baseer, S/o: Late Mohd Abdul Aleem, Aged about: 30 yrs, Occ: Business, R/o, H.No. 23-1-364, Jafferli Galli, Alijah Kotla, Charminar, Hyderabad.
2. Mohd Abdul Harman @ Fayyaz, S/o: Late Mohd Abdul Aleem, Aged about: 35 yrs, Occ: Business, R/o- H. No. 23-1-364, Jafferli Galli, Alijah Kotla, Charminar, Hyderabad.

...PETITIONER/ACCUSED No's. 1 to 2

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High court for the state of Telangana, Hyderabad.
2. Raheem Pasha, S/o: Late Rafiyath Pasha, Aged about: 44 years, Occ: Tailor, H.No. 23-1-364, Jaffari Gully, Alijah Kotla, Hyderabad.

...RESPONDENTS

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Quash FIR in Cr. No. 154/2022 on the file of the P.S.Moghulpura VIII Addl.Metropolitan Magistrate,At Hyderabad.

I.A. NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all the proceedings in Cr. No. 154/2022 on the file of the P.S. Moghulpura VIII Addl. Metropolitan Magistrate, At Hyderabad, pending disposal of the quash petition on the file of this Hon'ble Court.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri MD. FASEEHUDDIN, Advocate for the Petitioner and the Additional Public Prosecutor for the State of Telangana on behalf of the Respondent No.1 and None Appeared for the Respondent No.2

The Court made the following: ORDER

HONBLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.9446 of 2022

ORDER:

Heard the submission of learned counsel for the petitioners as well as the learned Additional Public Prosecutor who is representing respondent No.1-State. In the light of the limited relief sought for, issuance of notice to respondent No.2 is felt not required.

2. Seeking the Court to quash the proceedings that are pending against the petitioners who are arrayed as accused Nos.1 and 2 in Crime No.154 of 2022 of Mogalpura Police Station, Hyderabad, the present Criminal Petition is filed.

3. Learned counsel for the petitioners submits that the petitioners, who are arrayed as accused Nos.1 and 2 in Crime No.154 of 2022 of Mogalpura Police Station, Hyderabad, have not committed any offences whatsoever. Learned counsel states that it is respondent No.2 who got clandestinely registered a false case against the petitioners and the petitioners have not committed any offences punishable under Sections 448, 427 and 506

1

read with 34 IPC. Learned counsel also states that time and again, Police are calling the petitioners to Police Station and are directing them to enter into an understanding with respondent No.2 and hence, protection from arbitrary arrest and such threatening from Police may be issued.

4. Learned Additional Public Prosecutor did not raise any objection to pass appropriate orders in that regard.

5. Therefore, considering the submission thus made and the relevant material that is brought on record, this Criminal Petition is disposed of with the following directions:-

- (1) The Station House Officer, Mogalpura Police Station, Hyderabad, shall not effect arrest of the petitioners without following the procedure established by law.
- (2) The Station House Officer, Mogalpura 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 in ***Arnesh Kumar Vs. State of Bihar***¹ shall be followed.
- (4) The Station House Officer, Mogalpura Police Station/Investigating Officer shall not insist upon the personal appearance of the petitioners during the course of investigation, except where their personal appearance is required.
- (5) In case the personal appearance of the petitioners 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 shall co-operate with police during the process of investigation.
6. As a sequel, pending miscellaneous applications, if any, shall stand closed.

//TRUE COPY//

Sd/- K. SHYLESHI
DEPUTY REGISTRAR
SECTION OFFICER

To,

1. The VIII Addl. Metropolitan Magistrate, Nampally, Hyderabad.
2. The Station House Officer Mogalpura Police Station, Mogalpura, Hyderabad.
3. Two CC's PUBLIC PROSECUTOR, High Court for the State of Telangana at Hyderabad (OUT)
4. One CC to M/s MD. FASEEHUDDIN, Advocate [OPUC]
5. Two CD Copies.

¹ (2014) 8 SCC 273

HIGH COURT

Dr. CSL,J

DATED:28/10/2022

ORDER

CRLP.No.9446 of 2022

THE CRIMINAL PETITION IS DISPOSED OFF



7
V/V
12/12/22