

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 11091 OF 2022

Between

Banala Ajay, S/o. B Ramesh, Aged about 21 years, Occ. Student,
R/o H.No. 1-26, Reddy Colony, Road No. 5, LB Nagar, Ranga Reddy Dist.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court of
Judicature at Hyderabad Through Chaitanyapuri Police Station, Rachakonda,
Telangana.
2. Boddu Hari Krishna, S/o. Pandu, Aged about 23, Occ. Pvt. Employee, R/o.
H.No. 4-117, Durga Nagar, Chaitanyapuri, Ranga Reddy Dist., Hyderabad.

...RESPONDENTS/COMPLAINANTS

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 the crime registered vide impugned FIR No. 897 of 2022,
dt. 04.12.2022 registered U/Sec. 379 Of IPC on the file of P.S. Chaitanyapuri,
Rachakonda, Telangana, in the interest of justice.

I.A. NO: 2 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 further proceedings including stay of arrest in
furtherance of the crime registered vide FIR 897 of 2022, dt. 04.12.2022
registered U/Sec. 379 Of IPC on the file of P.S. Chaitanyapuri, Rachakonda,
Telangana in the interest of justice.

Counsel for the Petitioner : SRI R MANGULAL

Counsel for the Respondent No.1 : THE PUBLIC PROSECUTOR

Counsel for the Respondent No.2 : NONE APPEARED

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.11091 OF 2022****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner seeking to quash the proceedings against him in FIR No.897 of 2022 pending on the file of Station House Officer, Chaitanyapuri Police Station, Rachakonda. The offence alleged against him is under Section 379 of Indian Penal Code (for short 'IPC').

2. Heard both sides.
3. Learned counsel for the petitioner confines his prayer to direct the Police to follow the procedure prescribed under Section 41-A of Cr.P.C. for the reason of the offence alleged against the petitioner is punishable less than seven (07) years. He further submitted that the petitioner is not in judicial custody.
4. Learned Additional Public Prosecutor submits that the order to follow the procedure under Section 41-A of Cr.P.C. cannot be granted for the reason of the petitioner being a habitual offender

involved in eleven (11) cases. He further submitted that the petitioner might have been arrested in one or the other cases in which he is involved.

5. The procedure under Section 41-A of Cr.P.C. has to be followed in the event of the offences being punishable less than seven (07) years. Nowhere distinction is made regarding the pendency of one case or multiple cases under Section 41-A of Cr.P.C. In the event of the prosecution being aggrieved by the petitioner being involved in several cases, options are left open to the prosecution to invoke the provisions of P.D. Act.

6. In view of the aforesaid discussion, this Criminal Petition is disposed of directing the Investigating Officer in respect of FIR No.897 of 2022 pending on the file of Station House Officer, Chaitanyapuri Police Station, Rachakonda, to strictly follow the procedure laid down under Section 41-A of Cr.P.C. and also the guidelines issued by the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar***¹. The petitioner shall co-operate with the Investigating Officer by furnishing information and documents

¹ (2014) 8 SCC 273

as sought by him in concluding the investigation. In the event of the petitioner being in jail, the question of following the procedure under Section 41-A of Cr.P.C. does not arise.

Miscellaneous applications pending, if any, shall stand closed.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VII Additional Metropolitan Magistrate Cyberabad at Hayathnagar Ranga Reddy District.
2. The Station House Officer Chaitanyapuri Police Station Chaitanyapuri Hyderabad.
3. One CC to SRI. R MANGULAL, Advocate. [OPUC]
4. Two CCs to the PUBLIC PROSECUTOR, High Court for the State of Telangana at Hyderabad.[OUT]
5. Two CD Copies
6. One Spare Copy

SB

8

HIGH COURT

DATED:14/12/2022

ORDER

CRLP.No.11091 of 2022



DISPOSING OF THE CRLP WITHOUT COSTS

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