

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

FRIDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SMT JUSTICE G.ANUPAMA CHAKRAVARTHY

CRIMINAL PETITION NO: 10215 OF 2023

Between:

1. Mirza Aslam Baig @ Zarar, S/o Mirza Khader Baig, Occ Pvt. Employee, R/o H. No. 2- 3- 244, Front Building, 1st Floor, Ramgopalpet, Secunderabad
2. Md Mushtaq, S/o Yagoob, Occ Pvt. Employee, R/o H. No. 2- 3- 298/231, B Block, Nallagutta, Ranigunj, Secunderabad

...Petitioner/Accused Nos.2 & 3

AND

1. The State of Telangana, Rep. by the Public Prosecutor, High Court at Hyderabad.
2. Sri S. Lakshman, SI of Police, Ramgopalpet Police Station Hyderabad.

....Respondent/Defacto-Complainant

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 call for the records and quash the proceedings against the Petitioners/Accused Nos. 1 and 2 in CC. No. 1934 of 2020 on the file of XXII Additional Chief Metropolitan Magistrate at Secunderabad.

I.A. NO: 2 OF 2023

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 stay all further proceedings including appearance of the Petitioners/Accused Nos. 1 and 2 in CC. No. 1934 of 2020 on the file of XXII Additional Chief Metropolitan Magistrate at Secunderabad, pending disposal of the above Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri M A K MUKHEED, Advocate for the Petitioner, Sri S. GANESH, Public Prosecutor on behalf of the Respondent No.1 and None appeared for the Respondent No.2

The Court made the following: ORDER

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

CRIMINAL PETITION No.10215 OF 2023

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners—accused Nos.1 and 2 to quash the proceedings against them in C.C.No.1934 of 2020 pending on the file of the Court of XXII Additional Chief Metropolitan Magistrate, Secunderabad. The offences alleged against the petitioners are punishable under Sections 188, 270, 420 and 109 of Indian Penal Code (for short 'IPC'), Sections 2 and 3 of Epidemic Diseases Act, 1897 and Section 51(B) of Disaster Management Act, 2005.

2. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondent—State. Perused the record.
3. The Station House Officer, Ramgopalpet Police Station, filed charge sheet against the petitioners and other accused stating that the petitioners were members of Tabligi Jamath and they forcibly brought eight persons of Iran Nationals who were tested Covid-19 positive, to Hyderabad, for causing wrongful loss to the

Government and to spread infection of disease. The petitioners were being prosecuted for the reason of violating the State Government orders issued during Covid period.

4. Learned counsel appearing on behalf of the petitioners would submit that the respondent police registered the subject crime against the petitioners without conducting proper enquiry or without making out any case against the petitioners; that there is no ban imposed by the Government for doing prayers at Mosques; that the petitioners are not prohibited by the Government from visiting Delhi and that there is no ban on travel imposed by the Government, thereby, prayed to quash the proceedings against the petitioners in C.C.No.1934 of 2020.

5. On the other hand, learned Assistant Public Prosecutor submits that after due investigation, the police filed charge sheet against the petitioners and other accused and therefore, it is not a fit case to quash the proceedings against the petitioners at this point of time and the matter has to be decided by the trial Court only after conducting full-fledged trial.

6. From a perusal of the material on record including the scene of offence panchanama and statements of witnesses recorded by the police under Section 161 Cr.P.C. and the complaint lodged by respondent No.2, who is a public servant, it is evident that the trial Court ought to have seen that whether there is any *prima facie* case made out against the petitioners in order to take cognizance of the alleged offences against the petitioners. It is to be noted further that there is no material filed by the police to substantiate that the petitioners were tested positive or they spread the disease to anyone causing dangerous to the life due to their travelling from Delhi to Hyderabad. Therefore, this Court is of the *prima facie* opinion that no case is made out by the prosecution against the petitioners for the offences mentioned above.

7. Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.1934 of 2020 on the file of the Court of XXII Additional Chief Metropolitan Magistrate, Secunderabad, in respect of petitioners-accused Nos.1 and 2, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

SD/- MOHD. ISMAIL
ASSISTANT REGISTRAR

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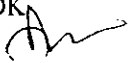
SECTION OFFICER

To,

1. The XXII Additional Chief Metropolitan Magistrate at Secunderabad.
2. The Station House Officer, Ramgoplapet Police Station, Hyderabad
3. Two CCs to Public Prosecutor, High Court at Hyderabad.
4. One CC to SRI. M A K MUKHEED Advocate [OPUC]
5. Two CD Copies

SP

ADK



HIGH COURT

DATED:13/10/2023

ORDER

CRLP.No.10215 of 2023



ALLOWING THE CRIMINAL PETITION

8.
MA
6/11/23