

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE FIFTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 11216 OF 2023

Between:

1. G. Ugandernath Reddy, S/o. Late G. Subba Reddy, aged about 58 years, Occ. business, R/o. 8/A, Sanjeeva Reddy Nagar, Hyderabad - 38.
2. K. Padmvathi Devi, W/o. Ranga Reddy, Aged about 75 years, occ. Housewife, R/o.H.No.16/A, S.R. Nagar colony, Hyderabad- 38.
3. B. Shakuthamma, W/o. Late Rama lingeshwar Reddy, Aged about 70 years occ. Housewife, R/o. Flat No.401, Sree Sai Avenue-II, Panchavathi Colony, Road No.13, Manikonda, Hyderabad- 86.
4. M. Samrajya laxmi, W/o. M. Chenna Reddy, Aged about 63 years, Occ. Housewife, R/o. Flat No.201, 2nd Floor, KPHB Colony, Eshwara Chandra Apartments, Hyderabad.
5. G. Shanti Devi, W/o. K. Krishna Reddy, Aged about 62 years, Occ. House wife, R/o. H.No. 187/2RT, Saidabad Colony, Hyderabad.
6. B. Sujatha, W/o. B. Prasad Reddy, Aged about 62, Occ. Housewife, R/o. Flat No.302, A-Block, S.V. Heights, Beside SV Complex, Kurnool town and District. A.P.

...PETITIONER/ACCUSED No.1 to 6

AND

1. The State of T.S, rep.by Public Prosecutor, High Court of T.S, Hyderabad.
2. Donthu Ravi Kiran, S/o Donthu Nagaiah, Aged about 43 years, Occ. Scientist, R/o. 3-4-526 /6 & 7, and flat No.504, Kaveri Enclave, Linghampally, Bharakathpura, Hyderabad.

...RESPONDENT/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 proceedings against the Petitioners/Accused No. 1 to 6 in C.C.No. 5068 of 2022, on the file of the Honble III Additional Chief Metropolitan Magistrate Court, Hyderabad for the offences registered U/s. 420, 406, 447, 506 R/w 34 IPC and to pass

I.A. NO: 1 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 grant stay of all further proceedings including the personal appearance of the Petitioners/Accused No. 1 to 6 in C.C.No.5068 of 2022, on the file of the Honble III Additional Chief Metropolitan Magistrate Court, Hyderabad for the offences registered U/s. 420, 406, 447, 506 R/w 34 IPC, pending disposal of the main Criminal Petition and pass

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri. T. L. NAYAN KUMAR, Advocate for the Petitioner and the Public Prosecutor (TG) on behalf of the Respondent No. 1

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.11216 of 2023

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is filed by the petitioners/A1 to A6 seeking to quash the proceedings against them in C.C.No.5068 of 2022 on the file of III Additional Chief Metropolitan Magistrate at Hyderabad. The offences alleged against the petitioners are punishable under Sections 420 and 406 of IPC.

2. Heard. Perused the record.

3. Learned counsel for the petitioners would submit that a private complaint was filed by respondent No.2, pursuant to which, the learned III Additional Chief Metropolitan Magistrate at Hyderabad has passed docket order on 08.07.2022 taking cognizance of the offences under Sections 420 and 406 of IPC against the petitioners and issued summons to the petitioners.

4. The docket order, dated 08.07.2022, reads as follows:

"Heard gone through the record along with statement of complainant and documents filed. In view of the specific allegations levelled against the accused, prima facie case is made out. Hence, cognizance is taken under Section 420, 406 of IPC against the accused. Issue summons to Respondent/Accused. Call on 23.09.2022."

5. As seen from the docket order, it is bereft of any reasons as to why cognizance has to be taken against the petitioners. It does not reflect that the learned Magistrate is conversant with the facts of the case.

6. This Court in the common order, dated 28.02.2023 in Criminal Petition Nos.439 and 545 of 2023, quashed the proceedings therein observing that taking cognizance against the accused therein was not in accordance with the law laid down by the Hon'ble Supreme Court in the cases of i) **Sunil Bharti Mittal v. Central Bureau of Investigation¹**; ii) **Fakhruddin Ahmad v. State of Uttaranchal and another²** and iii) **Deepak Gaba and others v. State of Uttar Pradesh³**.

7. This Court in Criminal Petition Nos.439 and 545 of 2023, held as follows:

"16. The Hon'ble Supreme Court further held that mere assertion "that having perused the record and statements of witnesses *prima facie* accusation is well founded" as recorded by the learned Magistrate will not meet the requirements of summoning the accused by application of judicious mind.

Time and again, this Court and the Hon'ble Supreme Court has found that summoning a person as accused to face criminal trial is a serious step taken by the criminal Court and such summoning can only be done when the Magistrate finds on the basis of facts that the ingredients of the offence alleged are *prima facie* made out. For the said reason, cognizance order

¹ (2015) 4 Supreme Court Cases 609)

² (2008) 17 Supreme Court Cases 157

³ (2023 LiveLaw(SC) 3

bereft of proper reasoning is liable to be set aside and accordingly set aside."

8. In view of the law laid down by the Hon'ble Supreme Court in the aforesaid judgments and also the common order passed by this Court in Criminal Petition Nos.439 and 545 of 2023, the impugned docket order, dated 08.07.2022 taking cognizance against the petitioners/A1 to A6 by III Additional Chief Metropolitan Magistrate at Hyderabad, is hereby set aside.

9. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/A1 to A6 in C.C.No.5068 of 2022 on the file of III Additional Chief Metropolitan Magistrate at Hyderabad, are hereby quashed. However, this order will not preclude the learned Magistrate from taking cognizance by giving adequate reasons.

Miscellaneous applications, if any pending in this criminal petition, shall stand closed.

SD/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The III Additional Chief Metropolitan Magistrate Court, Hyderabad
2. The SHO Sanjeev Reddy Nagar .Police Station, Hyderabad
3. One CC to SRI. T L NAYAN KUMAR, Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court for the State of Telangana at Hyderabad [OUT]
5. Two CD Copies

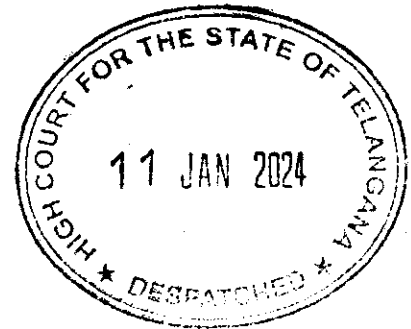
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HIGH COURT

DATED: 15/11/2023

ORDER

CRLP.No.11216 of 2023



ALLOWED

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