

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE THIRD DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 7 OF 2023

Between:

1. Vangala Pavan Kumar, S/o. Agaiah, Aged about 60 years, Occ. Advocate
2. Vangala Dinesh, S/o. Pavan Kumar Aged about 28 years, Occ. Software Engineer
3. Vangala Nagalaxmi, W/o. Pavan Kumar Aged about 51 years, Occ. Housewife
4. Dr. Vangala Vishnavi, D/o. Pavan Kumar Aged about 24 years, Occ. Medical P.G.Student

All the above Petitioners are Residents of H. No. 8-2-33, Vegetable Market, Jammikunta Mandal JAMMIKUNTA-505122, Karimnagar District

...PETITIONERS

AND

1. The State of Telangana, Rep. By its Public Prosecutor, High Court of Judicature at Hyderabad For the state of Telangana.

RESPONDENT NO.1

2. Vangala Nagaraju, S/o. Agaiah, Aged about 51 years, Occ. Teacher, I. R/o. 8-2-31, Vegetable Market, Jamimikunta Mandal JAMMIKUNTA-505122, Karimnagar District.

...RESPONDENT No.2 /DEFACTO COMPLAINANT

Petition under Section ~~487/436/439~~ 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 all the proceedings against the Petitioners in C.C.No. 864/2022 on the file of the Learned II Addl. Judicial First Class Magistrate, at Huzurabad, in the interest of justice.

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 issued an order of stay on all further proceedings, including appearance of the Petitioners in C.C.No. 864/2022 on the file of the Learned II

Addl. Judicial First Class Magistrate, at Huzurabad, pending disposal of the above quash petition, in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri T SASI KUMAR, Advocate for the Petitioner and of 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

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.7 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 to 4 to quash the proceedings against them in C.C.No.864 of 2022 pending on the file of II Additional Judicial First Class Magistrate at Huzurabad, registered for the offences under Sections 341, 290, 323, 427 and 506 of Indian Penal Code (for short 'IPC').

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. The 2nd respondent – *de facto* complainant filed a complaint against the petitioners stating that he was assaulted and a crime was registered vide FIR No.185 of 2022 and the same was investigated by the police. On the basis of evidence of witnesses, the police found that Accused Nos.1, 2 and 4 were not present and accordingly, deleted their names from the charge sheet. Accused

No.3 was only shown as accused in the charge sheet. The 2nd respondent filed an affidavit before the concerned Magistrate that he is not satisfied with the charge sheet filed by the police for the reason of not charge sheeting Accused Nos.1, 2 and 4.

4. Accordingly, the learned Magistrate passed an order on 18.10.2022 as follows:

"Police filed report stating that notice served on Lw1. LW1/Complainant called present and filed a affidavit stating that he wants to proceed with the case against A1, A2 and A4. Hence, taken on file under Sec.341, 290, 323, 427 and 506 R/w. 34 of IPC against Accused No.1 to 4. Issue summons to Accused No.1 to 4. Call on 30.12.2022."

5. As seen from the said order dated 18.10.2022, no protest application was filed by the 2nd respondent – complainant, however on an affidavit filed by him stating that he wanted to proceed with the case against the petitioners – Accused Nos.1, 2 and 4, the learned Magistrate has taken cognizance against the petitioners for the offences stated above and issued summons to the petitioners – accused Nos.1 to 4.

6. The procedure adopted by the learned Magistrate in taking cognizance on the basis of an affidavit filed by 2nd respondent has

no legal sanctity. Only on a protest petition that has been filed and after examining the 2nd respondent before the court, such orders of taking cognizance can be passed by giving detailed reasons as to the complicity of the accused against whom cognizance is taken.

7. The present order dated 18.10.2022 of the learned Magistrate lacks details of the case nor any reasons for taking cognizance against the petitioners – Accused Nos.1, 2 and 4. Hence, this Court deems it appropriate to set aside the order dated 18.10.2022 passed by the learned Magistrate.

8. Accordingly, the Criminal Petition is disposed off and order dated 18.10.2022 passed by the II Additional Judicial First Class Magistrate at Huzurabad, is hereby set aside, however this order will not preclude the court from taking cognizance by giving reasons.

Miscellaneous applications pending, if any, shall stand closed.

Sd/- N CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The II Additional Judicial Magistrate of First Class at Huzurabad.
2. The Station House Officer, Jammikunta Police Station, Karimnagar District.
3. Two CCs to the Public Prosecutor, High Court for the state of Telangana at Hyderabad (OUT)
4. One CC to SRI. T SASI KUMAR, Advocate [OPUC]
5. Two CD Copies

pr

PMG.

HIGH COURT

DATED:03/01/2023

ORDER

CRLP.No.7 of 2023



DISPOSING OF THE CRIMINAL PETITION

⑧ pmh,
30/1/23.