

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HON'BLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO.35125 OF 2023

Between:

Pathimedi Janardhan Reddy, S/o Chenna Reddy, aged about 57 years, Occ. Business, R/o H.No.12-8-388/B/1/13, Mettuguda, Secunderabad.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Home Department, Secretariat Building, Secretariat, Hyderabad.
2. The Director General of Police, Telangana State, Hyderabad.
3. The Superintendent of Police, Sanga Reddy, Sanga Reddy District.
4. The Deputy Superintendent Police, Patancheru Division, Sanga Reddy District.
5. The Station House Officer, Patancheru Police Station, Patancheru Town and Mandal, Sanga Reddy District.
6. Kolkuri Venkatesham, S/o Chandraiah, aged about 46 years, Occ. Business, R/o H.No.8-30, Patacheru, Sanga Reddy District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.5 in non-following the provisions of Notice U/Sec.41-A of Cr.P.C. to the petitioner in Crime No.913 of 2023 for the offence under U/Secs.420, 504 and 506 IPC and trying to arrest the petitioner, without following the due process of law and without

following the directions of Hon ble Apex Court in Arnesh Kumar Vs State of Bihar and is highly illegal, arbitrary, unconstitutional, violation of principles of natural justice and also in violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondent No.5 to follow the provisions of Notice U/Sec.41-A of Cr.P.C. to the petitioner in Crime No.913 of 2023 for the offence under U/Secs.420, 504 and 506 IPC and trying to arrest the petitioner, without following the due process of law and without following the directions of Hon'ble Apex Court in Arnesh Kumar Vs State of Bihar.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.5 to follow the provisions of Notice U/Sec.41-A of Cr.P.C. to the petitioner in Crime No.913 of 2023 for the offence under U/Secs.420, 504 and 506 IPC and trying to arrest the petitioner, without following the due process of law and without following the directions of Hon'ble Apex Court in Arnesh Kumar Vs State of Bihar pending disposal of the writ petition.

Counsel for the Petitioner: SRI RAPOLU BHASKAR

Counsel for the Respondent Nos. 1 to 5: GP FOR HOME

Counsel for the Respondent No.6: --

The Court made the following: ORDER

HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION No. 35125 of 2023

ORDER:

This Writ Petition is filed seeking the following relief:-

“...to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of respondent No.5 in non-following the provisions of Notice under Section 41-A of Cr.P.C. to the petitioner in Crime No.913 of 2023 for the offences under Sections 420, 504 and 506 IPC and trying to arrest the petitioner without following the due process of law and without following the directions of Hon'ble Apex Court in ***Arnesh Kumar Vs. State of Bihar***¹ is highly illegal. Arbitrary, unconstitutional, violation of principles of natural justice and also in violation of Articles 14 and 21 of the Constitution of India...”

2. The case of the petitioner is that he had instituted a suit for specific performance *vide* O.S.No.895 of 2022 on the file of the XI Junior Civil Judge, City Civil Court, Secunderabad, against respondent No.6. It is the further

¹(2014) 8 SCC 273

case of the petitioner that pending adjudication of the said suit, respondent No.6 has filed a complaint against him and acting on the same a case in Crime No.913 of 2023 dated 16.12.2023 was registered against him for the offences punishable under Sections 417, 420 and 506 of I.P.C. The grievance of the petitioner is that respondent No.5, without following the procedure as contemplated under Section 41-A of Cr.P.C. and also the guidelines issued by the Hon'ble Apex Court in **Arnesh Kumar's case** (supra), is frequently summoning him to the police station and forcing him to enter into a settlement/compromise with respondent No.6 as per the terms dictated by him.

3. Sri Rapolu Bhaskar, learned counsel appearing for the petitioner is vehemently contended that respondent No.5 is not having any power or authority to interfere into the civil disputes pending between the petitioner and respondent No.6 in any manner and the said action on his part amounts to violation of the rights guaranteed under Article 21 of the Constitution of India.

4. Learned Assistant Government Pleader for Home appearing for respondent Nos.1 to 5, on instructions, would submit that respondent No.6 had lodged a complaint and as the contents of the said complaint revealed cognizable offence a case in Crime No.913 of 2023 was registered against the petitioner and for the purpose of investigation, respondent No.5 made efforts to serve the notice as required under Section 41-A of Cr.P.C., the petitioner is evading to receive the notice and only to prevent the legal action to be taken by the police, he has instituted the present writ petition, therefore, the same is misconceived and liable to be dismissed in limine.

5. In the said circumstances, this Court, deems it appropriate to dispose of the writ petition, directing respondent No.5 to serve the notice as required under Section 41-A of Cr.P.C. to the petitioner, if his presence is required for the purpose of investigation in any crime and respondent No.5 is also directed to follow the guidelines issued by the Hon'ble Apex Court in **Arnesh Kumar's case** (supra). The petitioner is directed to cooperate with the

investigating agency by receiving the notice under Section 41-A of Cr.P.C. if the same was sent through Registered Post with Acknowledgment Due, to the address mentioned in this writ petition and after receipt of the said notice, he is directed to submit his explanation. The police are permitted to proceed with the investigation in the above crime strictly in accordance with law.

6. With the above observations, this Writ Petition is disposed of. No costs.

7. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

SD/-MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

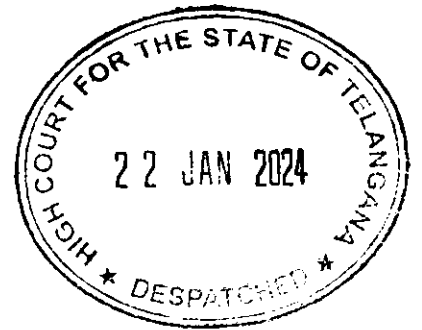
1. The Principal Secretary, Home Department, State of Telangana, Secretariat Building, Secretariat, Hyderabad.
2. The Director General of Police, Telangana State, Hyderabad.
3. The Superintendent of Police, Sanga Reddy, Sanga Reddy District.
4. The Deputy Superintendent Police, Patancheru Division, Sanga Reddy District.
5. The Station House Officer, Patancheru Police Station, Patancheru Town and Mandal, Sanga Reddy District.
6. One CC to SRI RAPOLU BHASKAR, Advocate [OPUC]
7. Two CCs to GP for Home, High Court for the State of Telangana at Hyderabad [OUT]
8. Two CD Copies

MP
GJP



HIGH COURT

DATED:02/01/2024



ORDER

WP.No.35125 of 2023

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

⑪ VLV
22/1/24