

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

**TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION NO: 16085 OF 2024

Between:

1. Bitchala Tirumala Rao, S/o. Pedda Ramulu, Age 50 yrs., Occ Advocate, R/o. H. No. 20-7-1117/1 Road No 13, Sri Ram Nagar, Khammam Town and District
2. Nerella Srinivasa Rao, S/o. Late Balakrishna, Age 58 yrs., Occ Advocate, R/o. H. No. 3-7-182/22 Al Sundaraiah Nagar, Khammam Town and District
3. Chekuri Mukthewawar Rao, S/o. Venkataiah, Age 51 yrs., Occ Advocate, R/o. Gudimalla Village, Khammam Rural Mandal and District
4. Arempala Venkateswerlu, S/o. Anandam, Age 53 yrs., Occ Advocate, R/o. H. No. 11-11-317/224 Ramanna Gutta, Khammam Town and District

...PETITIONERS/ACCUSED

AND

1. The State of Telangana, Represented by its Public Prosecutor
2. The Station House, Khammam Haveli Police Station

...RESPONDENTS

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the above case i.e., CC No. 4175 of 2024 on the file of II Addl. Judicial First-Class Magistrate at Khammam, against the Petitioners.

I.A. NO: 1 OF 2024

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant interim stay of all further proceedings in CC No. 4175 of 2024 on the file of II Addl. Judicial First-Class Magistrate at Khammam, including the personal appearance of the petitioner 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 Ponnamm Ashok Goud, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No. 1 and none appeared for the Respondent No. 2.

The Court made the following: ORDER

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION No.16085 of 2024

ORAL ORDER:

This Criminal Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'the BNSS') to quash the proceedings against the petitioners/accused in C.C.No.4175 of 2024 on the file of the II Additional Judicial Magistrate of First Class, Khammam, registered for the offences punishable under Sections 3 and 4 of the Telangana State Gaming Act, 1974.

2. Heard Sri Ponnamp Ashok Goud, learned counsel for the petitioner, and learned Assistant Public Prosecutor for respondent-State. Perused the record.

3. Learned counsel for the petitioner submitted that the matter is squarely covered by the order dated 03.04.2024 in Criminal Petition No.9645 of 2023.

4. Learned Assistant Public Prosecutor also submitted that the issue in the present criminal petition is covered by the earlier order in the above criminal petition.

5. In view of the said submission and as the matter is squarely covered by the order in the above criminal petition, this criminal petition is allowed in terms of the above said order, adopting the reasoning contained therein. Accordingly, the proceedings initiated against the petitioners/accused in C.C.No.4175 of 2024 on the file of the II Additional Judicial Magistrate of First Class, Khammam, are hereby quashed.

Pending miscellaneous petitions, if any, in this Criminal Petition shall also stand closed.

//TRUE COPY//

Sd/- T. JAYASREE
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The IInd Additional Judicial First-Class Magistrate at Khammam
2. The Station House Officer, Khammam Haveli Police Station, Khammam District
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to Sri Ponnamm Ashok Goud, Advocate [OPUC]
5. Two CD Copies

VII/gh

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HIGH COURT

DATED: 31/12/2024

ORDER

CRLP.No.16085 of 2024



ALLOWING THE
CRIMINAL PETITION

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THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.9645 OF 2023

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to quash the proceedings against the petitioners/accused Nos.1 to 19, in C.C.No.830 of 2023, on the file of the learned Principal Judicial Magistrate of First Class, Sircilla, Rajanna Sircilla District, registered for the offences punishable under Sections 3 and 4 of the Telangana State Gaming Act, 1974.

2. Brief facts of the case are that the respondent registered a case against the petitioners/accused Nos.1 to 19 stating that, on receipt of credible information that some of the persons were running common gaming house in Sircilla Town Club building, playing 3 cards by betting money and running gaming for wrongful gain, he has taken authorization letter from SDPO, Sircilla to enter into the gaming house and arrest the gamblers, search and seizure of money, playing cards etc. On 06.05.2023, the Police encircled the said building in the presence of two mediators and found that the petitioners were playing three cards by betting. Immediately, the Police took them into custody and seized an amount of Rs.1,34,790/- and three sets of playing cards from their possession. Basing on the said complaint the police registered a

case and after completion of investigation, they filed charge sheet before the Judicial Magistrate of First Class, Sircilla, Rajanna Sircilla District.

3. Heard Sri P. Giri Krishna, learned counsel appearing on behalf of the petitioners as well as Sri S. Ganesh, learned Assistant Public Prosecutor appearing on behalf of the respondent.

4. Learned counsel for the petitioners submitted that a false case has been foisted against the petitioners. Petitioner No.1 is the President and petitioner No.2 is the Secretary of the Sircilla Town Club. They used to go to the town club regularly. When Petitioner Nos.1 and 2 were conducting skilled game with other petitioners, the Police have purposefully entered into the premises and took them into their custody. In support of his submission, learned counsel relied on the Judgment of the High Court of Andhra Pradesh in ***D. Krishna Kumar and another vs. State of Andhra Pradesh***¹, wherein it is categorically held that playing rummy is a game of skill. He further relied on the Judgment of this Court in Criminal Petition No.5169 of 2023, wherein it is categorically held that since petitioner No.1 is the owner of the house used for playing games, the same cannot be termed as common gaming house.

¹ 2002 (5) ALT 806

5. Learned counsel for the petitioners further submitted that without following the procedure laid down under the Telangana State Gaming Act, the prosecution has falsely implicated the petitioners. It is further contended that the game of playing cards is not an offence *per-se*, it is an offence when it is carried on in a public place or in a common gaming house as defined under the Gaming Act. Therefore, he prays the Court no case is made out against the petitioners.

6. On the other hand, learned counsel for the respondent submitted that as the petitioners are playing cards by investing money and the statements of witness clearly reflects that they are playing three cards game, he prayed the Court to dismiss the petition.

7. It is pertinent to note that the judgment of this Court dated 26.09.2022 in **Tholem Narsimha Rao and another vs. State of Telangana and another**², wherein in paragraph Nos.14 and 15, it is held as follows:

"14. In view of the principle laid down in the above said citations, it cannot be said that the petitioners-accused Nos.6 and 7 have committed the offence under Section 3 of the A.P. Gaming Act, more particularly when there is no person, who was in-charge and in possession for collecting money

² 2023 (1) ALD (CrL) 326 (TS)

towards usage charges. Therefore, Section 3 of the A.P. Gaming Act cannot be fastened on the petitioners-accused Nos.6 and 7 as the house, wherein they are alleged to have been playing cards is not a gaming house.

15. The petitioners-accused Nos.6 and 7 were charged for the offence under Section 4 as well as Section 3 of the A.P. Gaming Act. Therefore, it is to be examined whether facts narrated by the prosecution would amount to committing of an offence under Section 4 of the Act. In the case on hand, according to the prosecution, the petitioners were present for the purpose of gaming in a common gaming house shall on conviction may suffer for simple imprisonment for six months, which may extend to three years. Unless the place of the offence is specified to be a common gaming house, Section 4 of the A.P. Gaming Act will not attract.*

8. Having regard to the rival submissions made by both the learned counsel, having gone through the material available on record and having considered the view taken by this Court in Criminal Petition No.5169 of 2023 and in Criminal Petition No.9687 of 2016 that the premises where the persons were playing cards, cannot be termed as a gaming house as defined under Section 2(1) of the Act. Since it is not a gaming house, Section 3 of the Act is not applicable; thereby the petitioner cannot be punished for the offence punishable under Section 4 of the Act as such, the allegations levelled against the petitioners are liable to be quashed.

9. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/accused Nos.1 to 19 in C.C.No.830 of 2023, on the file of the learned Principal Judicial Magistrate of First Class, Sircilla, Rajanna Sircilla District, are hereby quashed.

Miscellaneous applications, if any pending, shall also stand closed.

K. SUJANA, J

Date: 03.04.2024

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