IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY,THE TWENTY SEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

CRIMINAL PETITION NO: 8475 OF 2025

Between:
Konda Vishweshwar Reddy, S/o. Konda Madhva Reddy, Aged about 59 years, Occ. Member of Parliament of Chevella, R/o. H.No.8-2674/1,Road No.13, Banjara Hills, Hyderabad.

...PETITIONER/ACCUSED NO.1

AND

1. The State of Telangana, Represented by its Public Prosecutor, High Court Of Telangana.at Hyderabad.

2. Machineella Ram Babu, S/o. Kedari, Aged 37 Years, Occ. Pred Dharur Mandal/Flying Squad Incharge Team No.1 Vikarabad, R/o. Near Area Hospital, Suryapet District

...RESPONDENTS/COMPLAINANT

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 call for the records pertaining to the case in C.C.No.281 OF 2022 on the File Of The Special Judicial First Class Magistrate For Trial Of Excise Cases, Manoranjan Complex, Nampally, Hyderabad and quash the same with respect to the Petitioner/Accused No.1, by holding it to be an abuse of process of law.

I.A. NO: 2 OF 2025

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 Stay of all further proceedings, including the personal appearance of the Petitioner/Accused No.1 in the case in C.C.No.281 OF 20220n The File Of The Special Judicial First Class Magistrate For Trial Of Excise Cases, Manoranjan Complex, Nampally, Hyderabad with respect to the Petitioners herein.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri B BALAJI, Advocate for the Petitioner and Mr. E. Ganesh, Asst. Public Prosecutor on behalf of the Respondent No.1 and none appeared for the Respondent No.2.

The Court made the following: ORDER

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

CRIMINAL PETITION No.8475 OF 2025

DATE OF ORDER 27.11.2025

Between:

Konda Vishweshwar Reddy,
S/o. Konda Madhava Reddy,
Aged about 59 years, Occ: Member of
Parliament of Chevella, R/o.H.No.8-2674/1,
Road No.13, Banjara Hills, Hyderabad
.. Petitioner/Accused No.1

And

1. The State of Telangana Rep.,
   By its Public Prosecutor, High Court
   Of Telangana at Hyderabad
2. Machineella Ram Babu, S/o. Kedari,
   Aged 37 years, Occ: Pred Dharur Mandal/
   Flying Squad Incharge Team No.1,
   Vikarabad, R/o. Near Area Hospital,
   Suryapet District
   .. Respondents

O R D E R:

This Criminal Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (for short 'BNSS') by petitioner/accused No.1 to quash the proceedings against him in C.C.No.281 of 2022 on the file of The Special Judicial First Class Magistrate for trial of Excise Cases, Manoranjan Complex, Nampally, Hyderabad.

2. Heard Mr. B.Balaji, learned counsel for petitioner/accused No.1 and Mr. E.Ganesh, Assistant Public Prosecutor for respondent No.1–State.

3. On the basis of complaint of respondent No.2 (Machineella Ram Babu, Flying Squad In-charge Team No.1, Vikarabad), an FIR bearing No.69 of 2019 came to be registered on 12.03.2023 for the offences under Section 188 of Indian Penal Code, 1860 (for short 'IPC'). It is stated in the complaint that respondent No.2, while performing his duties, at 11:00 hours, came across a hunger strike being undertaken in an open place opposite to RDO office, Vikarabad, by the followers of a national party. That petitioner/accused No.1 (MP Chevalla) along with other accused (accused No.2 - Ex-MLA Pargi, accused No.3 - MLA Tandur, accused No.4 - Ex-Minister, Vikarabad and accused No.5 – Vikarabad Congress Party Town President) participated in the hunger strike. It is further stated that as per the Model Code of Conduct, they could not have conducted such meeting, without proper permission. Hence, the complaint.

4. Complaint is said to be received on 12.03.2019 at 14:00 hours, FIR came to be registered on the very same day. Charge sheet came to be filed against accused on 24.07.2019, on the file of Judicial First Class Magistrate, at Vikarabad.

5. On a perusal of the charge sheet, it is observed that contents of the charge sheet are a verbatim replica of complaint, except for the statement that the acts and commission of accused persons constitutes an offence under Section 188 of IPC and a reference to LWs.2 to 4.

6. Learned counsel for petitioner/accused No.1 submitted that for an offence under Section 188 of IPC, a procedure has been prescribed under Section 195 of Code of Criminal Procedure, 1973, (for short 'Cr.P.C.') and the procedure mandated under Section 195 of Cr.P.C. is not followed, as such, the offence under Section 188 of IPC cannot be said to be made out.

7. Reliance is placed on the judgment of the Hon'ble Apex Court in ***Devendra Kumar v. State (NCT of Delhi) and***

another. Referring to paragraphs 41, 42 and 43, as well as the conclusions summarised therein, it is submitted that the Apex Court considered Section 195 Cr.P.C and laid down the law. The same has not been adhered to, hence, the proceedings be quashed.

8. On a perusal of the material on record it is observed that procedure laid out under Section 195 of Cr.P.C. has not been adhered to, charge sheet is taken on record and cognizance of the offence is taken by Judicial First Class Magistrate, at Vikarabad, for an offence under Section 188 and numbered as C.C.No.281 of 2022 on the filing of final report/charge sheet.

9. Section 195 of Cr.P.C. is as follows:

> **"195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.**—(1) No Court shall take cognizance—
>
> (a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, (45 of 1860), or
>
> (ii) of any abetment of, or attempt to commit, such offence, or
>
> (iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or
(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or
(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

[1][except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.]

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the Principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;
(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

[195A. **Procedure for witnesses in case of threatening, etc.**—A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code (45 of 1860)]"

10. On a perusal of Section 195 Cr.P.C., it is apparent that a complaint in writing has to be made to the Court. Complaint is defined under Section 2(d) Cr P.C., and the same is as follows:

"complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report."

11. Section 188 of IPC is as follows:

> **"188. Disobedience to order duly promulgated by public servant.**—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,
>
> shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;
>
> and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

12. For constituting an offence under Section 188 of IPC, the disobedience has to lead to the consequences spoken of in the Section. Mere disobedience would not suffice. Promulgation of an order would be normally by way of publication in Gazette and making known to public by publishing it in the newspaper(s). Section 195(1)(a) Cr.P.C. is primary, a plain reading of Section enumerates the procedure that a complaint as defined under Section 2(d) Cr.P.C. must be made in writing by a public servant, which

is essential for a Magistrate to take cognizance under Section 188 of IPC. When such a procedure is prescribed, the Police cannot register an FIR, investigate the case and file a final report, when on offence is alleged under Section 188 of IPC.

13. On a perusal of the definition under Section 2(d) of Cr.P.C., it is evident that any allegation has to be made to the Magistrate orally or in writing and that a complaint does not include a police report in its fold. A police report is filed under Section 173 Cr.P.C. Once it is defined that a complaint does not include a police report/final report/charge sheet, the same cannot be said to be a complaint. It is a report filed after investigation, which does not fit into the definition of Section 2(d) Cr.P.C.

14. The Apex Court while dealing with Section 195 Cr.P.C., in ***Devendra Kumar*** (1 supra) held as follows:

> "41. While deciding whether the distinct offences can be split up, courts must remain circumspect. It is agreed that, the law is not that once the facts of a given case disclose an offence falling within the scope of Section 195 Cr. P.C. and also other offences, prosecution can be launched regarding the latter only upon the complaint of the court or the lawfully authority concerned. To hold otherwise would be to extend the scope of Section 195 Cr. P.C. to regions and horizons not contemplated by the legislature. The facts in a case may give rise to distinct

offences including offences against the authority of public servants or against public justice, as also offences against private individuals; the bar under Section 195 of the Cr. P.C. cannot, in such circumstances, affect the offences other than those against public authority or public justice. Prosecution for such other offences does not require the instrumentality of the public authority or court. However, the position may be different when during the course of the same transaction offences falling within the two categories are committed. In such cases, it may not be possible to split up the transaction, and to hold that there can be valid prosecution for offences not mentioned in Section 195 of the Cr. P.C., without the written complaint of the public authority or the court, as the case may be. Courts must be able to see through any attempt to render Section 195 of the Cr. P.C. nugatory by hiding the real nature of the transaction by verbal jugglery. If in principle and substance the offence alleged falls within the categories mentioned in Section 195, the operation of the bar cannot be avoided; if in essence the alleged offence falls outside the categories, the bar would not operate. At the same time, if the facts give rise to distinct offences, some attracting the operation of Section 195 and others not so, the bar can operate only regarding the former and not regarding the latter.

42. Therefore, the courts must ascertain whether during the course of a single transaction, the offences falling within both the categories are committed, in which case it would be difficult to split up the offences or, whether there are two different transactions which occur successively, nevertheless separately and distinctively, in which case the offences may be split up. One another aspect that may be looked into is whether, apart from the offences committed in contempt of lawful authority of public servants, or against public justice or, relating to documents given in evidence which fall under the scope of Section 195 Cr. P.C., the other distinct offences are of such a nature that private individuals are aggrieved. In such a scenario, it would not be reasonable to bar a private prosecution by the aggrieved individual for the reason that the public official or the court concerned has also not instituted a complaint.

43. Section 195(1)(a)(i) of the Cr. P.C. bars the court from taking cognizance of the offence punishable under Section 186 I.P.C., unless there is a written complaint by the public servant for voluntarily obstructing him from

discharge of his public functions. The object of this provision is to provide for a particular procedure in a case of voluntarily obstructing a public servant from discharging his public functions. The court lacks competence to automatically take cognizance in certain types of offences enumerated therein. The legislative intent behind such a provision has been that an individual should not face criminal prosecution instituted upon insufficient grounds by persons actuated by malice, ill-will or frivolity of disposition and also to save the time of the criminal courts being wasted by endless prosecutions. This provision has been carved out as an exception to the general rule contained under Section 190 Cr. P.C. that any person can set the law in motion by making a complaint, as it prohibits the court from taking cognizance of certain offences until and unless a complaint has been made by some particular authority or person. Other provisions in the Cr. P.C. like sections 196 and 198 respectively do not lay down any rule of procedure, rather, they only create a bar that unless some requirements are complied with the court shall not take cognizance of an offence described in those Sections. [See: *Govind Mehta* v. *The State of Bihar*, (1971) 3 SCC 329 : AIR 1971 SC 1708; *Patel Laljibhai Somabhai* v. *The State of Gujarat*, (1971) 2 SCC 376 : AIR 1971 SC 1935; *Surjit Singh* v. *Balbir Singh*, (1996) 3 SCC 533; *State of Punjab* v. *Raj Singh*, (1998) 2 SCC 391; *K. Vengadachalam* v. *K.C. Palanisamy*, (2005) 7 SCC 352; *Iqbal Singh Marwah* v. *Meenakshi Marwah*, (2005) 4 SCC 370 : AIR 2005 SC 2119]

CONCLUSION

59. We may summarize our final conclusion as under:

(i) Section 195(1)(a)(i) of the Cr. P.C. bars the court from taking cognizance of any offence punishable under Sections 172 to 188 respectively of the I.P.C., unless there is a written complaint by the public servant concerned or his administrative superior, for voluntarily obstructing the public servant from discharge of his public functions. Without a complaint from the said persons, the court would lack competence to take cognizance in certain types of offences enumerated therein.

(ii) If in truth and substance, an offence falls in the category of Section 195(1)(a)(i), it is not open to the court to undertake the exercise of splitting them up and

proceeding further against the accused for the other distinct offences disclosed in the same set of facts. However, it also cannot be laid down as a straitjacket formula that the Court, under all circumstances, cannot undertake the exercise of splitting up. It would depend upon the facts of each case, the nature of allegations and the materials on record.

(iii) Severance of distinct offences is not permissible when it would effectively circumvent the protection afforded by Section 195(1)(a)(i) of the Cr. P.C., which requires a complaint by a public servant for certain offences against public justice. This means that if the core of the offence falls under the purview of Section 195(1)(a)(i), it cannot be prosecuted by simply filing a general complaint for a different, but related, offence. The focus should be on whether the facts, in substance, constitute an offence requiring a public servant's complaint.

(iv) In the aforesaid context, the courts must apply twin tests. First, the courts must ascertain having regard to the nature of the allegations made in the complaint/FIR and other materials on record whether the other distinct offences not covered by Section 195(1)(a)(i) have been invoked only with a view to evade the mandatory bar of Section 195 of the I.P.C. and secondly, whether the facts primarily and essentially disclose an offence for which a complaint of the court or a public servant is required.

(v) Where an accused is alleged to have committed some offences which are separate and distinct from those contained in Section 195, Section 195 will affect only the offences mentioned therein. However, the courts should ascertain whether such offences form an integral part and are so intrinsically connected so as to amount to offences committed as a part of the same transaction, in which case the other offences also would fall within the ambit of Section 195 of the Cr. P.C. This would all depend on the facts of each case.

(vi) Sections 195(1)(b)(i)(ii) & (iii) and 340 of the Cr. P.C. respectively do not control or circumscribe the power of the police to investigate, under the Criminal Procedure Code. Once investigation is completed then the embargo in Section 195 would come into play and the Court would not be competent to take cognizance. However, that Court could then file a complaint for the offence on the basis of the FIR and the material collected during

> investigation, provided the procedure laid down in Section 340 of the Cr. P.C. is followed."

15. A learned Single Judge of High Court of Madras in ***Jeevanandham and others v. State rep. by Inspector of Police and another***[1], after referring to a catena of judgments, issued the following guidelines for an offence under Section 188 of IPC:

> "29. In view of the discussions, the following guidelines are issued insofar as an offence under Section 188 of IPC, is concerned:
>
> a) A Police Officer cannot register an FIR for any of the offences falling under Section 172 to 188 of IPC.
>
> b) A Police Officer by virtue of the powers conferred under Section 41 of Cr.P.C. will have the authority to take action under Section 41 of Cr.P.C, when a cognizable offence under Section 188 IPC is committed in his presence or where such action is required, to prevent such person from committing an offence under Section 188 of IPC.
>
> c) The role of the Police Officer will be confined only to the preventive action as stipulated under Section 41 of Cr.P.C. and immediately thereafter, he has to inform about the same to the public servant concerned/authorised, to enable such public servant to give a complaint in writing before the jurisdictional Magistrate, who shall take cognizance of such complaint on being prima facie satisfied with the requirements of Section 188 of IPC.
>
> d) In order to attract the provisions of Section 188 of IPC, the written complaint of the public servant concerned should reflect the following ingredients namely;

---

[1] 2018 SCC OnLine Mad 13698

i) that there must be an order promulgated by the public servant;

ii) that such public servant is lawfully empowered to promulgate it;

iii) that the person with knowledge of such order and being directed by such order to abstain from doing certain act or to take certain order with certain property in his possession and under his management, has disobeyed; and

iv) that such disobedience causes or tends to cause;

(a) obstruction, annoyance or risk of it to any person lawfully employed; or

(b) danger to human life, health or safety; or

(c) a riot or affray.

e) The promulgation issued under Section 30(2) of the Police Act, 1861, must satisfy the test of reasonableness and can only be in the nature of a regulatory power and not a blanket power to trifle any democratic dissent of the citizens by the Police.

f) The promulgation through which, the order is made known must be by something done openly and in public and private information will not be a promulgation. The order must be notified or published by beat of drum or in a Gazette or published in a newspaper with a wide circulation.

g) No Judicial Magistrate should take cognizance of a Final Report when it reflects an offence under Section 172 to 188 of IPC. An FIR or a Final Report will not become void ab initio insofar as offences other than Section 172 to 188 of IPC and a Final Report can be taken cognizance by the Magistrate insofar as offences not covered under Section 195(l)(a)(i) of Cr.P.C.

h) The Director General of Police, Chennai and Inspector General of the various Zones are directed to immediately formulate a process by specifically empowering public servants dealing with for an offence under Section 188 of IPC to ensure that there is no delay in filing a written complaint by the public

servants concerned under Section 195 (1)(a)(i) of Cr.P.C."

16. On one hand, in the complaint, it is stated that there was a hunger strike and on the other hand, it is stated that there was a meeting conducted. No details of the meeting are forthcoming, neither the place, nor timing, nor the number of persons gathered is forthcoming. Be that as it may, law requires that procedure under Section 195 Cr.P.C. needs to be followed. The bar contemplated under Section 195 Cr.P.C. kicks in at the stage of cognizance, the said procedure as mandated under Section 195 Cr.P.C and as per the law declared by the Hon'ble Apex Court has not been followed. In the absence of adherence to the requirements of law, the proceedings are liable to be quashed.

17. Having considered the entire factual matrix of the case, this Court is of the opinion that interests of justice would be met, if proceedings in C.C.No.281 of 2022 on the file of the Special Judicial First Class Magistrate for trial of Excise Cases, Manoranjan Complex, Nampally, Hyderabad, against petitioner/accused No.1 are quashed, as the proceedings, if continued would amount to abuse of process of law.

18. This Court deems it appropriate that a copy of this judgment be marked to Director General of Police for the State of Telangana for taking necessary steps and to formulate a process for empowering public servants dealing with offence under Section 188 of IPC, as per the law laid down by the Apex Court.

19. With above observations, the Criminal Petition is allowed and the proceedings in C.C.No.281 of 2022 on the file of The Special Judicial First Class Magistrate for trial of Excise Cases, Manoranjan Complex, Nampally, Hyderabad, against petitioner/accused No.1, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

SD/- S. MALLIKARJUNA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

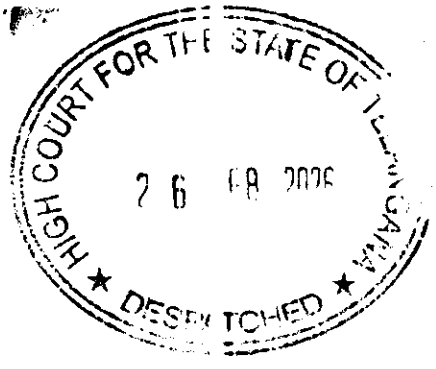
SECTION OFFICER

To,
1. The Special Judicial First Class Magistrate for Trial of Excise Cases, Manoranjan Complex, Nampally, Hyderabad.
2. The Director General of Police for State of Telangana, Police Head quarters, Lakdi Ka Pool, Saifabad, Hyderabad-500004
3. One CC to SRI. B BALAJI Advocate [OPUC]
4. One CC to SRI. PUBLIC PROSECUTOR Advocate [OPUC]
5. Two CD Copies

GE/PSL

HIGH COURT

DATED:27/11/2025



ORDER

CRLP.No.8475 of 2025

ALLOWING THE CRLP WITHOUT COSTS

7 copies
Kr
27/11/26