

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

**WEDNESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION NO: 12606 OF 2025

Between:

1. Kanneboina Mahender S/o. Odelu, Age.54 Yrs, Occ. Business, R/o. Venkatraopalli (V), Huzurabad (M), Karimnagar District
2. Siga Chiranjivi S/o. Komuraiah, Age.41 Yrs, Occ. Business, R/o. Manikyapur (V), Bhemmadevarapalli (M), Karimnagar District

...PETITIONER/ACCUSED No. 1 & 2

AND

1. The State of Telangana, (through P.S. Saidapur, Karimnagar), rep by its Public Prosecutor High Court of Telangana at Hyderabad
2. J. Arogyam, (Sub-Inspector of Police) S/o. Not known to petitioners, Aged about. 48 Yrs, Occ.SI of Police, O/o. Saidapur Police Station, Huzurabad, Karimnagar.

...RESPONDENT/DEFACTO 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 quash the proceedings initiated against Petitioners/Accused no. 1 and 2 in C.C. No. 367 of 2025 (arising out of Crime No. 57/2024 of PS Saidapur) for the offence under section 9-B (1) (b) of Explosive Act 1884 pending on the file of learned I Additional Judicial First Class Magistrate, Huzurabad.

I.A. NO: 1 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 stay all further proceedings in C. C. No. 367 of 2025 (arising out of Crime No. 57/2024 of PS Saidapur) pending on the file of learned I Additional

Judicial First Class Magistrate, Huzurabad, 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 CH. Venkat Reddy, Advocate for the Petitioners, Public Prosecutor on behalf of the Respondent No. 1 and none appeared for the Respondent No. 2.

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION No.12606 OF 2025

DATE: 31-12-2025

Between:

Kanneboina Mahender and another

... Petitioners

And

The State of Telangana,
Rep. by its Public Prosecutor,
High Court of Telangana,
Hyderabad (through P.S. Saidapur, Karimnagar)
and another

... Respondents

ORDER:

This Criminal Petition is filed by the petitioners-accused Nos.1 and 2 seeking to quash the proceedings against them in C.C.No.367 of 2025 on the file of learned I Additional Judicial Magistrate of First Class, Huzurabad, registered for the offence under Section 9B(1)(b) of the Explosives Act, 1884.

2. Heard Ms. B. Keerthi Reddy, learned counsel representing Sri Ch. Venkat Reddy, learned counsel for the petitioners and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1-State.

3. Learned counsel for the petitioners submitted that the police have foisted a false case against the petitioners herein; that the petitioners have permission for conducting explosives business; that the offence under Section 9B(1)(b) of the Explosives Act is a non-cognizable offence; that the police failed to follow the procedure contemplated under Section 155(1) and (2) of Cr.P.C. and thus, the proceedings in the present C.C. are vitiated. She, therefore, prayed to quash the proceedings in the present C.C. against the petitioners herein. Learned counsel, in support of her submissions, has relied upon the decision of the High Court of Karnataka in **Harish Babu v. State of Karnataka**¹, wherein the proceedings against the accused therein were quashed when the procedure under the Cr.P.C. was not followed in case of registration of non-cognizable offence.

4. Learned Additional Public Prosecutor submitted that the offence alleged against the petitioners is a non-cognizable offence and therefore, prayed to pass appropriate orders in the Criminal Petition.

5. Perused the record.

¹ NC:2023:KHC:44692 (Crl.P.No.12231 of 2023, dated 08.12.2023)

6. The allegations against the petitioners herein are that petitioner No.1-accused No.1 is running Bhuvaneshwari Enterprises Explosives Magazine at Jagiripalli outskirts without any valid license or permit from the concerned, having purchased the same from petitioner No.2-accused No.2, and selling the explosives to needy persons on higher price and getting benefits illegally. The police have apprehended the accused and explosives were seized from the possession of petitioner No.1-accused No.1. Thus, the petitioners are charged for the offence under Section 9B(1)(b) of the Explosives Act. The same is extracted hereunder for the sake of reference:

"9B. Punishment for certain offences.-(1) Whoever, in contravention of rules made under section 5 or of the conditions of a licence granted under the said rules-

(a) xxx

(b) Possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees or with both;"

The said offence is a non-cognizable offence and so, the police have to follow the procedure contemplated under Section 155 Cr.P.C. The said Section is extracted hereunder for the sake of reference:

"155. Information as to non-cognizable case, and investigation of such cases.-(1) When information is given to an officer-in-charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No Police Officer shall investigate a non-cognizable case without the order of Magistrate having power to try such case or commit the case for trial.

(3) Any Police Officer receiving such order may exercise the same powers in respect of the investigation except the power to arrest without warrant) as an officer-in-charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable."

7. The police on receiving information with regard to commission of a non-cognizable offence have to make an entry in the GD book and then have to seek the permission of the Magistrate prior to registration of the crime and thereafter, shall proceed with investigation. In the present case, the said procedure was not followed by the police. The complaint was lodged by the Sub-Inspector of Police on 05.04.2024 and the

F.I.R was registered on the same day against the petitioners herein. The record does not disclose as to the GD entry made by the police and also as to obtaining permission of the concerned Magistrate. Further, it is disclosed from the recitals of the F.I.R. that the police have submitted to the concerned Court i.e., I Additional Judicial Magistrate of First Class, Huzurabad, about the contents of the complaint and have stated that the apprehended accused along with seized case material were brought to the police station at 16:00 hours and a Suo Motu case was registered. Thus, it shows that the police have violated the procedure contemplated under Section 155 Cr.P.C. Therefore, it vitiates the proceedings and continuation of further proceedings against the petitioners in the present C.C. would be an abuse of process of law.

8. The Honourable Supreme Court in **State of Haryana v. Bhajanlal**², held that when the allegation in the F.I.R. and other material, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of Cr.P.C., except under an order of Magistrate within the purview of Section 155(2) of Cr.P.C., the power under Section 482 of Cr.P.C., needs to be exercised by the

² 1992 Supp.(1) SCC 335

High Court. Following the said principle, the High Court of Karnataka in **Badrinath v. The State of Karnataka**³, has quashed the proceedings against the accused therein.

9. In **Harish Babu's** case (supra 1), the High Court of Karnataka has quashed the proceedings against the accused therein by following its earlier judgment in **Smt. Shilpa v. The State of Karnataka**⁴, wherein, it was held that if the offence alleged is a non-cognizable offence, the police have no jurisdiction to investigate into the matter without the permission of the jurisdictional Magistrate. Applying the said principle to the case on hand, the proceedings in the present C.C. are also liable to be quashed against the petitioners herein.

10. Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.367 of 2025 on the file of learned I Additional Judicial Magistrate of First Class, Huzurabad, are hereby quashed against the petitioners herein.

Miscellaneous Petitions pending, if any, shall stand closed.

³ NC: 20241 KHC-K: 3547

⁴ Cr.P.No 5778 of 2022, dt. 30.06.2022

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Sd/- P. PONNA KRISHNA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The I Additional Judicial First Class Magistrate, Huzurabad
2. The Station House Officer, Saidapur Police Station, Karimnagar District
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at

4. One CC to Sri CH. Venkat Reddy, Advocate [OPUC]
5. Two CD Copies

lps

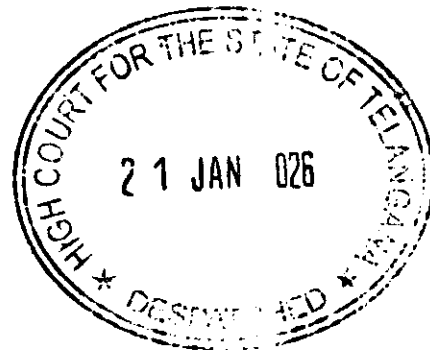
HIGH COURT

ETD, J

DATED: 31/12/2025

ORDER

CRLP.No.12606 of 2025



ALLOWING THE
CRIMINAL PETITION

⑧
kpr
21/1/26