

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

**FRIDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION NO: 14533 OF 2025

Between:

1. Alakunta Mahondar, S/o A.Pedda Narsimulu Aged about 34 years, Occ: Business R/o H.No. 1-191, Vaddara Colony Prashanth Nagar, Siddipet District.
2. Alakunta Ashok, S/o Alakunta Narsimulu Aged about 40 years, Occ: govt employee, R/o H.No. 1-191, Vaddara Colony Prashanth Nagar, Siddipet District
3. Alakunta Kanakawva, W/o Alakunta Narsimulu Aged about 60 years, Occ: Agriculture R/o H.No. 1-190, Vaddara Colony Prashanth Nagar, Siddipet District.

...Petitioner/Accused No.1 to 3

AND

1. The State of Telangana, rep by its Public Prosecutor Through Siddipet I Town Police Station, Siddipet District High Court of Judicature of Telangana at Hyderabad
2. Konda Ramesh, S/o Sathaiah Aged about 49 years, Occ: Petrol Bunk Worker R/o Narayanaraopet Village and Mandal Siddipet District.

...Respondent/Complainant

Petition under Section 528 of B.N.S.S. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the FIR.No. 512 of 2025 dated 23-10-2025 on the file of the Siddipet I Town Police Station, Siddipet District against the petitioners herein/ accused No.1 to 3 in the interest of justice

I.A. NO: 1 OF 2025

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 stay all further proceedings including arrest and appearance of the petitioners/ Accused No.1 to 3 in pursuance to the FIR.No. 512 of 2025 dated 23-10-2025 on the file of the Siddipet I Town Police Station, Siddipet District pending disposal of the above Criminal 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 Mohd Asifuddin Advocate for the Petitioners and Sri Jithender Rao Veeramalla, the Additional Public Prosecutor on behalf of the Respondent No. 1

The Court made the following: **ORDER**

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION No.14533 OF 2025

ORDER:

This Criminal Petition is filed by the petitioners-accused Nos.1 to 3 seeking to quash the proceedings against them in Crime No.512 of 2025 of Siddipet-I Town Police Station, Siddipet District, registered for the offences under Sections 447, 427 and 506 read with 34 I.P.C.

2. Heard Sri Mohd. Asifuddin, 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 petitioners purchased the subject land in the year 2023 and got it developed and that there is also *ad interim* injunction in favour of petitioner No.1. Thus, when the petitioners are in possession of the subject land, the allegation of trespass against the petitioners would be utterly false and that the said allegation cannot be maintained against them. He further submitted that respondent No.2-*de facto* complainant has filed the present complaint just to harass the petitioners, by giving criminal colour to the civil litigation. He further submitted that the petitioners got converted

the agricultural land into non-agricultural land and also obtained electricity connection. He further submitted that the offences alleged are punishable with less than seven years of imprisonment and hence, the police may be directed to invoke Section 41(A) Cr.P.C. against the petitioners herein.

4. Learned Additional Public Prosecutor objected to the said proposal by stating that though the offences alleged are punishable with less than seven years of imprisonment, petitioner No.1 is a rowdy sheeter, who is involved in 15 cases of similar nature and that several cases are yet to come up. He further submitted that hundreds of victims have suffered in the hands of the petitioners and therefore, several cases have been registered against the petitioners herein. He, therefore, prayed to dismiss the Criminal Petition.

5. Perused the record.

6. The learned Additional Public Prosecutor, on instructions, submitted that a rowdy sheet is opened against petitioner No.1-accused No.1. He is alleged to have involved in 15 cases so far, which are of similar nature. In the complaint, it is alleged that the *de facto* complainant has purchased the subject land in the

name of his wife in the year 2014. While so, on 23.12.2023, the petitioners have trespassed into the subject land and removed the boundary stones and when the *de facto* complainant and others tried to stop them, the petitioners have threatened them with dire consequences. Therefore, the present complaint is filed. The allegations in the present case point out trespass and mischief and also that the petitioners have threatened the *de facto* complainant with dire consequences.

7. The petitioners' counsel contends that since the offences alleged are punishable with imprisonment less than seven years, the procedure under Section 41A Cr.P.C. may be invoked. In this regard, it is pertinent to refer to Section 41 and 41A Cr.P.C. The same is extracted hereunder for the sake of reference:

"41. When police may arrest without warrant.-(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person -
(a) who commits, in the presence of a police officer, a cognizable offence;
(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without

fine, if the following conditions are satisfied, namely

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(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary -

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing:

Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may

extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;

(c) who has been proclaimed as an offender either under this Code or by order of the State Government; or

(d) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or

(e) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or

(f) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or

(g) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or

(h) who, being a released convict, commits a breach of any rule, made under sub-section (5) of section 356; or

(i) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) Subject to the provisions of Section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.

41A. Notice of appearance before police officer. - (1)

The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of Section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.¹

8. The Hounourble Apex Court in **Arnesh Kumar v. State of Bihar and another**¹, held that the aforesaid provisions makes it clear that in all cases where the arrest of a person is not required under Section 41(1) Cr.P.C., the police officer is required to issue notice directing the accused to appear before him at a specified place and time. Law obligates such an accused to appear before the police officer and it further mandates that if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the police officer is of the opinion that the arrest is necessary. At this stage also, the condition precedent for arrest as envisaged under Section 41 Cr.P.C. has to be complied and shall be subject to the same scrutiny by the Magistrate as aforesaid. It was further observed that the endeavour of the judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically.

¹ (2014) 8 SCC 273.

9. Thus, the police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of Section 41 Cr.P.C., issue a notice. So, the sum and substance is that Section 41A Cr.P.C. comes into play only when the Investigating Officer feels that arrest is not necessary. So, if the Investigating Officer is of the opinion that the accused has to be arrested, then the Investigating Officer can directly arrest the accused, without resorting to Section 41A Cr.P.C. notice. What is required for an Investigating Officer to resort to arrest without notice under Section 41A Cr.P.C. is the subjective satisfaction of the conditions in Section 41(1) Cr.P.C. If accused is to be arrested, the Investigating Officer shall satisfy himself about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.P.C.; forward the check list containing specified sub-clauses under Section 41(1)(b)(ii) duly filed and furnish the reasons and materials which necessitated the arrest; and forward the same to the Court with the remand, who after satisfying with the reasons mentioned by the Investigating Officer will remand the accused. In the present case, a rowdy sheet is opened against petitioner No.1 and the petitioners are said to be involved in several cases of similar nature, as disclosed by the learned Additional Public Prosecutor, on instructions. Thus, it is

opined that invoking the provision under Section 41A Cr.P.C. would not be just and proper. The investigation is still in progress and truth is yet to be unravelled. In view of the above held discussion, it is opined that the petitioners are not entitled to any relief.

10. Accordingly, the Criminal Petition is dismissed.

Miscellaneous Petitions pending, if any, shall stand closed.

SD/- C. DEEPIKA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Judicial First Class Magistrate, Siddipet.
2. The Station House Officer, Siddipet I Town Police Station, Siddipet District
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad.(OUT)
4. One CC to Sri Mohd Asifuddin, Advocate [OPUC]
5. Two CD Copies

Sd,



HIGH COURT

DATED:28/11/2025



ORDER

CRLP.No.14533 of 2025

DISMISSING THE CRIMINAL PETITION

⑧
19/01/26
GK