IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE SEVENTEENTH DAY OF MARCH TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 1157 OF 2026

BETWEEN:

1. Mohammad Sanaulla, S/o Mohd. Yousuf Sab, Age: 54 years, Occ: Helper, R/o H.No.1266, 3rd Cross, Right Side, Santhi Nagar, Shimoga, Vinobanagar, Karnataka State.
2. Javeed Ahmed, S/o Late Abdul Razaq, Age: 65 years, Occ: Helper, R/o H.No.7-3, RT Road Right Side, PWD Quarters, opp. Road, Shimoga, Shivamogga, Karnataka State.

...Petitioners/A4 & A7

AND

1. The State of Telangana, Rep. by its public Prosecutor, High Court for the State of Telangana.

...Respondent/State

2. Sri Mohd. Yahiya, S/o Mohd. Abdul Khader, age: 59 years, Occ: Private Business, R/o H.No.17-2-840/3/A, Madannapet, Market, Hyderabad.

...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 call for the records and to quash the proceedings against the petitioners in CC No.7761 of 2022 On the file of the VII Additional Chief Metropolitan Magistrate, Hyderabad.

I.A. NO: 2 OF 2026

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 including arrest of the petitioners in CC No.7761 of 2022 On the file of the VII Additional Chief Metropolitan Magistrate, Hyderabad, pending disposal of the criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Ms. Monica P. Pole, Advocate for the Petitioners and Sri Jithender Rao Veeramalla, learned Additional 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 HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.1157 of 2026

Date: 17.03.2026

Between:

Mohammad Sanaulla and another

... Petitioners/Accused Nos.4 and 7

AND

The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another

... Respondents

:ORDER:

This Criminal Petition has been filed by the petitioners/accused Nos.4 and 7 seeking to quash the proceedings in C.C.No.7761 of 2022 pending on the file of the VII Additional Chief Metropolitan Magistrate, Hyderabad, for the offence punishable under Section 420 read with 34 of the Indian Penal Code, 1860.

2. Learned counsel for the petitioners submitted that pursuant to the order dated 02.02.2026, he sent personal notice to respondent No.2 to the correct address mentioned in the complaint as well as the charge sheet by way of registered post with acknowledgment due and the same was returned with a

postal endorsement 'no such person' and he filed a Memo, vide USR No.17487 of 2026 dated 12.02.2026. As per Section 27 of the General Clauses Act, 1897, it amounts to deemed service.

3. With the consent of Ms. Monica P. Pole, learned counsel for the petitioner, and Mr. Jithendar Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1, the criminal petition is being disposed of at the admission stage.

4. From perusal of the record, it reveals that on 25.10.2022, the learned Magistrate, without recording satisfaction and without assigning any reasons, took cognizance against the petitioners and other accused and not against the offence and issued summons to them and the same is contrary to law.

5. It is very much relevant to mention that in **Sunil Bharati Mittal v. Central Bureau of Investigation**[1], the Hon'ble Supreme Court held that the order of issuing process to accused to face criminal trial is a serious issue. Such summoning cannot be done on mere asking and the Court has to record reasons for summoning a person. In **GHCL Employees Stock Option Trust v. India Infoline Limited**[2], the Hon'ble Apex Court found fault with the order of the Magistrate in issuing summons when the Magistrate has not recorded his satisfaction about the prima

[1] (2015) 4 SCC 609
[2] (2013) 4 SCC 505

facie case against the accused. In **Chief Enforcement Officer v. Videocon International Limited**[3], the Hon'ble Supreme Court while discussing the expression 'cognizance' held that in criminal law 'cognizance' means becoming aware of and the word used with respect to Court or a Judge initiating proceedings in respect of an offence. Taking cognizance would involve application of mind by the Magistrate to the suspected commission of an offence. The Hon'ble Supreme Court in **Sunil Bharati Mittal's** case *supra*, further held as follows:

> "Sine Qua Non for taking cognizance of the offence is the application of mind by the Magistrate and his satisfaction that the allegations, if proved, would constitute an offence. It is, therefore, imperative that on a complaint or on a police report, the Magistrate is bound to consider the question as to whether the same discloses commission of an offence and is required to form such an opinion in this respect. When he does so and decides to issue process, he shall be said to have taken cognizance. At the stage of taking cognizance, the only consideration before the Court remains to consider judiciously whether the material on which the prosecution proposes to prosecute the accused brings out a prima facie case or not."

6. In **Fakhruddin Ahmad v. State of Uttaranchal and another**[4], it is held as follows:

> "Nevertheless, it is well settled that before a Magistrate can be said to have taken cognizance of an

[3] (2008) 2 SCC 492
[4] (2008) 17 SCC 157

> offence, it is imperative that he must have taken notice of the accusations and applied his mind to the allegations made in the complaint or in the police report or the information received from a source other than a police report, as the case may be, and the material filed therewith. It needs little emphasis that it is only when the Magistrate applies his mind and is satisfied that the allegations, if proved, would constitute an offence and decides to initiate proceedings against the alleged offender, that it can be positively stated that he has taken cognizance of the offence. Cognizance is in regard to the offence and not the offender."

7. In view of the observations and directions of the Hon'ble Supreme Court in the judgments referred to *supra*, the act of issuing process for summoning an accused to face a criminal trial is a serious issue and such orders directing the issuance of summons to a person to face criminal trial cannot be passed on the basis of cryptic orders and it should be an order reflecting due application of mind by the Presiding Officer while taking cognizance and issuing process.

8. For the foregoing reasons as well as in view of the principles laid down by the Hon'ble Apex Court in the judgments cited *supra*, and without going into the other grounds, this Court is of the considered view that the cognizance order passed in C.C.No.7761 of 2022 pending on the file of the VII Additional Chief Metropolitan Magistrate, Hyderabad is liable to be quashed and is accordingly quashed. However, this order will not

preclude the learned Magistrate from taking cognizance and passing orders afresh in accordance with law, by giving reasons.

9. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

Sd/- V. HARI PRASAD
DEPUTY REGISTRAR

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SECTION OFFICER

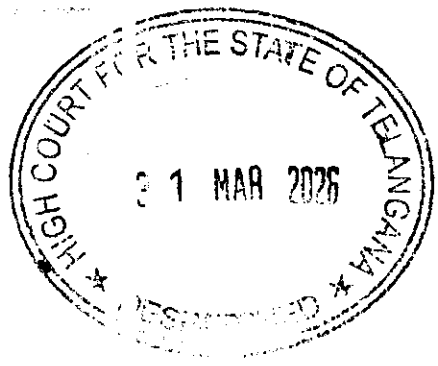
To,

1. The VII Additional Chief Metropolitan Magistrate, Hyderabad.
2. The Station House Officer, Saidabad Police Station, Hyderabad City.
3. Two CCs to the Public Prosecutor, High Court of Telangana at Hyderabad [OUT]
4. One CC to Ms. Monica P. Pole, Advocate [OPUC]
5. Two CD Copies

GNK/kam

HIGH COURT

DATED: 17/03/2026



ORDER

CRLP.No.1157 of 2026

DISPOSING THE CRIMINAL PETITION

30/3/26