IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY,THE NINETEENTH DAY OF FEBRUARY TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 2228 OF 2026

Between:

1. SHAIK SAIFULLAH @ KHALED, S/o Late Shaik Mahboob Ali, Age. 50 years,Occ. Advocate , R/o H.No.16-2-867/5,SBH Colony, Saidabad, Akbarbagh, Hyderabad.
2. MOHD BALEEGUDDIN @ JABER, S/o Late Mohd Naseeruddin, Age. 38 years,Occ. Business, R/o H.No.16-2-867/A/11, JYJ Colony, Saidabad, Hyderabad.

...PETITIONERS/ACCUSED NO.1& 3

AND

1. THE STATE OF TELANGANA,, Rep. by its Public Prosecutor, High Court of Telangana, Hyderabad through P.S. SAYEEDABAD.
2. DIN DAYAL SINGH, S/o Not known to the Petitioners Age. Major Occ. Sub - Inspector of police Saidabad Police Station, Hyderabad.

...RESPONDENTS/DE FACTO COMPLAINANTS

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 entire proceedings in C.C.No. 9315 on the file of the VII Additional Chief Metropolitan Magistrate, Hyderabad, in so far as the petitioners/accused Nos. 1 and 3 , are concerned considering the above stated fact sand reasons in the interest of justice, and pass such other order or orders as this Hon ble Court may deem fit and proper.

I.A. NO: 1 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 pending in C.C.No. 9315 of 2020 on the file of the VII Additional Chief Metropolitan Magistrate, Hyderabad, in so far as the petitioners/Accused No.1 and 3, are concerned, pending disposal of the Quash Petition, considering the above stated facts and reasons, in the interest of justice, and pass such other order or orders as this Court may deem fit and proper.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri SYED AHMED ALI ,Advocate for the Petitioner and Sri Jithender Rao Veeramalla, the Public Prosecutor (TG) 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 HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.2228 of 2026

Date: 19.02.2026

Between:

Shaik Saifullah @ Khaled and another

...Petitioners

AND

The State of Telangana,
Rep. by its Public Prosecutor,
Hyderabad through P.S.Sayeedabad
and another

...Respondents

Order

This Criminal Petition is filed by the petitioners/accused Nos.1 and 3 seeking to quash the proceedings against him in C.C.No.9315 of 2020 on the file of learned VII Additional Chief Metropolitan Magistrate at Hyderabad.

2. The facts of the case in brief are that, on 27.06.2020 at 18:30 hours, the *de-facto* complainant, who is the Sub-Inspector of Police, Saidabad Police Station, lodged a complaint stating that the accused gathered 500 members and performed namaz and cremation of their father namely Moulana Nazeeruddin who died due to COVID-19

without maintaining any social distance by a procession via main road from VIP school to Saidabad X roads in violation of the COVID-19 norms and the lockdown orders promulgated by the Government of Telangana vide G.O.Ms.Nos.45 and 46.

3. Heard Mr.Syed Ahmed Ali, learned counsel for petitioners and Mr.Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for the respondents.

4. Learned counsel appearing for the petitioners accused Nos.1 and 3 submits that the petitioners are innocent and had been falsely implicated in the case. He further submits that Section 195(1)(a) of Cr.P.C. bars taking cognizance of the offence under Section 188 of the Indian Penal Code, 1860 (for short 'IPC'), except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. In the present case, the complaint was lodged by the *de-facto* complainant, who is not a competent person, the present FIR is not maintainable and the same is liable to be quashed. He further submits that the offence under Section 269 of the IPC shall be deemed to have been committed under Section 188 of the IPC. When Section 188 of the IPC warrants filing of a private complaint, the same restriction applies

to Section 269 of the IPC also. Since the prime offence under Section 188 of the IPC is barred by Section 195(1)(a) of Cr.P.C., the whole proceedings are without jurisdiction.

5. In support of his contention, learned counsel for the petitioners relied upon the judgment of the Hon'ble Supreme Court in ***State of Karnataka v. Hemareddy***[1] , wherein, at paragraph No.8, it is held as follows:

> *" We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a Court is necessary under Section 195(1) (b) of the Code of Criminal Procedure and an offence for which a complaint of a Court is necessary under that sub-section are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 195(1)(b) of the Code of Criminal Procedure should be upheld. (Emphasis supplied)"*

6. Further, this Court in Crl.P.No.14601 of 2025, while considering the same situation, categorically observed that the offences alleged against the petitioner therein cannot be continued and quashed the proceedings. The petitioners are also entitled to the same relief and hence prayed to quash the proceedings against the petitioners.

---

[1] AIR 1981 SC 1417

7. The learned Additional Public Prosecutor, on the other hand, submitted that the petitioners herein had also been charged with the offences other than 188 of the IPC. Hence, the learned Magistrate has rightly taken cognizance of the aforesaid offences against the petitioners basing on the final report filed by the Police. As such, the proceedings cannot be vitiated and the cognizance taken by the learned Magistrate cannot be said to be one without authority of Law. He further submitted that the truth or otherwise of the allegations levelled against the petitioners can only be known after conducting full-fledged trial, and hence prayed to dismiss the petition.

8. For the sake of convenience, Section 188 of IPC and Section 195 of Cr.P.C. are extracted hereunder.

> ***"Section 188 of IPC:-*** *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 to tender 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 trends 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."*

*"**Section 195 of Cr.P.C:-** Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to 5 documents given in evidence. (1) No Courts 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, 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)."

9. Having heard both sides and perused the material on record, it is evident that the proceedings against the petitioners for the offence under Section 188 of the IPC have been initiated basing on the complaint made by the de facto complainant, who is a Police Officer, but not on the basis of complaint in writing of the public servant concerned, as is required under Section 195(1)(a) of Cr.P.C. Therefore, the proceedings against the petitioners for the offence under Section 188 of the IPC are liable to be quashed. Insofar as the

other offence i.e., Sections 269 of the IPC is concerned, as per the judgment of Hon'ble Supreme Court in ***Hemareddy's case (supra)***, it is clear that if the offences form part of the same transaction of the offences contemplated under Section 195 of Cr.P.C., it is not possible to split up and hold the prosecution of the petitioners. Hence, the FIR culminating in taking cognizance of the aforesaid offences against the petitioners stands vitiated and the continuation of criminal proceedings against the petitioners amounts to abuse of process of law.

10. In view of the aforesaid reasons, this Criminal Petition is allowed and the proceedings against the petitioners accused Nos.1 and 3 in C.C.No.9315 of 2020 on the file of learned VII Additional Cheif Metropolitan Magistrate at Hyderabad, are hereby quashed.

Pending miscellaneous applications, if any, shall stand closed.

Sd/- C.SULEKHA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

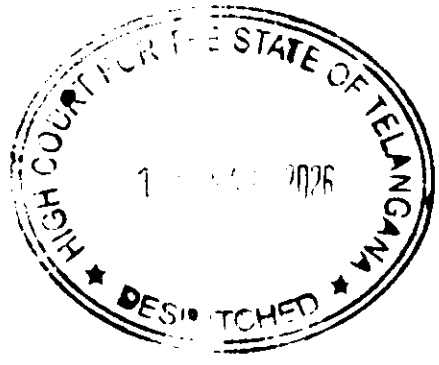
To,

1. The VII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.
2. The Station House Officer, Saidabad Police Station, Hyderabad
3. One CC to SRI SYED AHMED ALI, Advocate [OPUC]
4. Two CCs to the Public Prosecutor, High Court of Telangana at Hyderabad [OUT]
5. Two CD Copies

SM/BA

HIGH COURT

DATED: 19/02/2026



ORDER

CRLP.No.2228 of 2026

ALLOWING THE CRIMINAL PETITION

(8)

kpr

10/3/26