IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE SIXTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 5671 OF 2026

Between:

1. Mohammed Abdul Faheem, S/o. Abdul Raheem, Occ. Private Employee,Age about. 34 years, R/o. H.No. 9-44/B/30/A,Noori Nagar Rd No. 6, Hakeempet, Tolichowli,Golconda, Hyderabad, Telangana-500008.

...Petitioner/Accused No.1

2. Habeebunissa Begum, W/o. Abdul Raheem Mohammed, Occ. Household,Age about. 56 years, R/o. H.No. 9-44/B/30/A,Noori Nagar Rd No. 6, Hakeempet, Tolichowli,Golconda, Hyderabad, Telangana-500008.

...Petitioner/Accused No.2

3. Tanveer @ Alias Iffath Sultana, W/o. Rafee, D/o. Abdul Raheem Mohammed Occ. Household,Age about. 33 years, R/o. H.No. 9-44/B/30/A,Noori Nagar Rd No. 6, Hakeempet, Tolichowli,Golconda, Hyderabad, Telangana-500008.

...Petitioner/Accused No.3

4. Abdul Raheem Mohammed, S/o. Late MA Habeeb, Age about. 60 years, Occ Household R/o. H.No. 9-44/B/30/A,Noori Nagar Rd No. 6, Hakeempet, Tolichowli,Golconda, Hyderabad, Telangana-500008.

...Petitioner/Accused No.4

AND

1. The State of Telangana, represented by its, Public Prosecutor, High Court of Telangana Hyderabad, Telangana
2. Ayesha Fatima, W/o. Mohammed Abdul Faheem, Aged about 28 years, Occ. Household, R/o. H.No- 16-2-54/6867, 3rd Floor, Flat No. 303, Masha Allah Apartments, Akberbagh, New Malakpet, Hyderabad, Telangana

... Complainant/ Respondent No.2

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 in C.C. No. 10237 of 2024 (arising out of Crime No. 70/2024 of WPS South West Zone (Hyderabad) Police station), pending on the file of the Chief Metropolitan Magistrate, Nampally, Hyderabad, against the Petitioners for the offences under Sections 498-A, 406 of IPC, Sec- 3 and 4 of D.P. Act.

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 in C.C. No. 10237 of 2024 on the file of the Chief Metropolitan Magistrate, Nampally, Hyderabad, against the Petitioners including personal appearance of the Petitioners, pending disposal of the main criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Kashir Mehtab Khan, Advocate for the Petitioners and Sri Jithender Rao Veeramalla, Additional Public Prosecutor on behalf of 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.5671 of 2026

Date: 16.04.2026

Between:

Mohammed Abdul Faheem and three others

..Petitioners

AND

The State of Telangana and another

...Respondents

ORDER

This Criminal Petition has been filed by the petitioners/accused Nos.1 to 4 seeking to quash the proceedings in C.C.No.10237 of 2024 on the file of the Chief Metropolitan Magistrate at Nampally, Hyderabad.

2. Heard Mr.Aashir M Khan, learned counsel for the petitioners and Mr.Jithendar Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1.

3. With the consent of both the learned counsel, the criminal petition is disposed of at the admission stage on the ground that even

according to the learned counsel for the petitioners, the matter before the learned trial Court has not yet ripened for the trial In view of the same, notice in respect of respondent No.2/*defacto* complainant is dispensed with.

4. During the course of hearing, learned counsel for the petitioners, submitted that the learned Magistrate, without recording satisfaction and without assigning any reasons, has taken cognizance against the petitioners on 29.08.2024 and issued summons mechanically and passed cryptic docket order. Therefore, the docket order dated 29.08.2024 passed by the learned Magistrate is liable to be quashed.

5. Learned Additional Public Prosecutor has not opposed the submissions made by the learned counsel for the petitioners.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the learned Magistrate has taken cognizance, without recording satisfaction and without assigning any reasons against the accused and not against the offences, through docket order dated 29.08.2024.

7. 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 facie case against the accused. In ***Chief Enforcemnet 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,*

[1] (2015) 4 SCC 609
[2] (2013) 4 SCC 505
[3] (2008) 2 SCC 492

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."

8. 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 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."

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

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[4] (2008) 17 SCC 157

10. For the foregoing reasons and 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 dated 29.08.2024 is liable to be quashed and 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.

11. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

Sd/-A. SREENIVASA REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

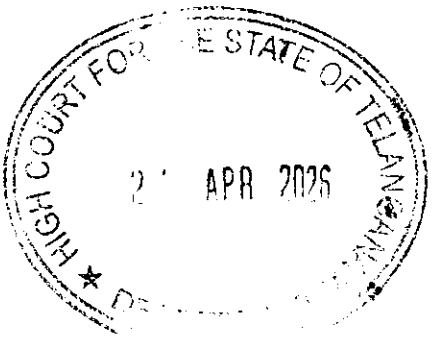
To,

1. The XV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad
2. The Station House Officer, WPS South West Zone Police Station, Hyderabad
3. One CC to SRI. AASHIR MEHTAB KHAN, Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR High Court for the State of Telangana, at Hyderabad [OUT]
5. Two CD Copies

ADK/ba

HIGH COURT

DATED: 16/04/2026



ORDER

CRLP.No.5671 of 2026

DISPOSING OF THE CRLP

(8) NT 21/4/26.