IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE SEVENTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION No: 5792 of 2026

Between:

Pendyala Shiva Prashanth, S/o Pendyala Ravi, Aged about 32 years, Occ. Business, R/o Flat No. 520, Berbera Block, Bhanu Township, Miyapur, Cyberabad, Telangana

...Petitioner/Accused

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court for the State of Telangana, Hyderabad, Through SHO, Police Station Kothagudem 1 Town, Bhadradri Kothagudem District.
2. Smt. Nakka Sindhura, W/o. Ravi, Aged. 34 Years, Occ. Housewife, R/o. H.No.9-1-140/1, Madhura Basthi, Kothagudem, Bhadradri Kothegudem District.

...Respondents/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 in CC.No.1377 of 2025 on the file of the I Additional Judicial Magistrate of First Class at Kothagudem for the offence under Section 79, 296(b), 351(2) of Bharatiya Nyaya Sanhitha 2023, against the Petitioner/Accused.

I.A. NO: 1 OF 2026

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 be pleased to grant Stay of all further proceedings, including appearance of the petitioner, in CC.No1377 of 2025 on the file of the I Additional Judicial Magistrate of First Class at Kothagudem for the offence under Section 79, 296(b), 351(2) of Bharatiya Nyaya Sanhitha 2023, against the Petitioner/Accused, 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 Sridhar Lonkala, Advocate for the Petitioner and Sri Jithender Rao Veeramalla, Additional Public Prosecutor on behalf of the Respondent No. 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.5792 of 2026

Date: 17.04.2026

Between:

Pendyala Shiva Prashanth

...petitioner/accused

AND

The State of Telangana and another

...respondents

ORDER

This Criminal Petition is filed by the petitioner/accused seeking to quash the proceedings in C.C.No.1377 of 2025 pending on the file of the I Additional Judicial Magistrate of First Class at Kothagudem, for the offences punishable under Sections 79, 296(b) and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

2. Heard Sri Sridhar Lonkala, learned counsel for the petitioner and Sri 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 riped for the trial yet and is at the stage of summons. 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 petitioner submitted that the learned Magistrate without recording satisfaction and without assigning any reasons has taken cognizance on 30.07.2025 and issued summons to the petitioner and the same is contrary to the principle laid down in ***Sunil Bharati Mittal v. Central Bureau of Investigation***[1].

5. The above said submissions are not opposed by the learned Additional Public Prosecutor.

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 on 30.07.2025 without applying his mind and without assigning any reasons, especially taken cognizance against the accused and not

[1] (2015) 4 SCC 609

against the offences through cognizance order passed in C.C.No.1377 of 2025.

7. It is very much relevant to mention that in ***Sunil Bharati Mittal*** *supra* 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

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

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."*

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

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[4] (2008) 17 SCC 157

be an order reflecting application of mind by the Presiding Officer while taking cognizance and issuing process.

10. For the foregoing reasons as well as 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 cognizance order passed in C.C.No.1377 of 2025 pending on the file of the I Additional Judicial Magistrate of First Class at Kothagudem, 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/- P. PONNA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

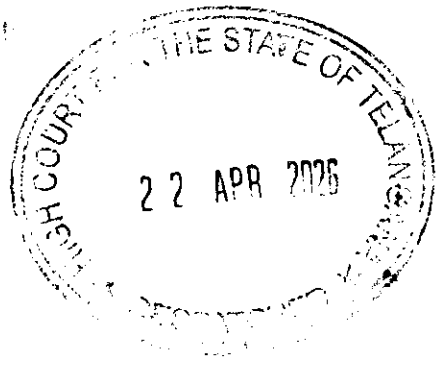
1. The I Additional Judicial Magistrate of First Class, Kothagudem
2. The VIII Additional Judicial Magistrate of First Class, Kukatpally, Cyberabad
3. The Station House Officer, Miyapur Police Station, Cyberabad
4. The Station House Officer, Kothagudem 1 Town Police Station, Bhadradri Kothagudem
5. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
6. One CC to Sri Sridhar Lonkala, Advocate [OPUC]
7. Two CD Copies

ARK /RA

CC - TODAY

HIGH COURT

DATED: 17/04/2026



ORDER

CRLP.No.5792 of 2026

DISPOSING OF THE CRIMINAL PETITION

10 copies
PVL
21/04/2026