IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY EIGHTH DAY OF OCTOBER TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 11123 OF 2026

Between:

Mamidi Nagaraju Sagar, S/o. N.Kranthi Kumar, aged about 45 years, Occ.Business, R/o. H.No. 3-5-56/29/B, Road No.1/A, Krishna Nagar, Moula Ali, Medchal/Malkajgiri Dist

...Petitioner/Accused No.1

AND

1. The State of Telangana, rep its Public Prosecutor, High Court, Hyderabad
2. Mamidi Laxmi Sagar Sangeetha Laxmi, W/o. Mamidi Nagaraju Sagar, aged about 37 years, Occ. Household, Caste.Uppara/Sagara, presently residing at.11-4-297/5/3, Chilkalguda, Secunderabad, native: H.No.3-5-56/29/B, Krishna Nagar Colony, Moula Ali, Kapra Mandal, Medchal/Malkajgiri Dist

...Respondents

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 1478 of 2023, II Addl Junior Civil Judge-cum-VI Addl Judicial Magistrate of First class, Uppal, at Medipally, Medchal/Malkajgiri Dist registered U/Sec 498-A and 506 of IPC, Sec 3 of D.P.Act, dated. 15-9-2023, including the appearance of the petitioner/Accused No.1.

I.A. NO: 2 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 to grant stay of all further proceedings in C.C.No 1478 of 2023, on the file of II Addl Junior Civil

Judge-cum-VI Addl Judicial Metropolitan Magistrate of First Class, Uppal, at Medipally, Medchal/Malkajgiri Dist registered U/Sec 498-A and 506 of IPC, Sec 3 of D.P.Act, dated: 15-9¬2023, including the appearance of the petitioner/Accused no.1 till the disposal of the Main Quash Petition in the interest of the justice

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Brahmadandi Ramesh, Senior Counsel representing Sri B Siva Prasad, Advocate for the Petitioner and Sri Jithender Rao Veeramalla, Additional Public Prosecutor on behalf of the Respondent No.1-State.

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.11123 of 2026
(CNR No. HBHC010470072026)

Date: 28.10.2026

Between:

Mamidi Nagaraju Sagar

...Petitioner/Accused No.1

AND

The State of Telangana and another.

...Respondents

ORDER

This Criminal Petition is filed by the petitioner/accused No.1 seeking to quash the proceedings in C.C. No.1478 of 2023 on the file of the II Additional Junior Civil Judge-cum-VI Additional Judicial Magistrate of First Class, Uppal at Medipally, Medchal Malkajgiri District, for the offences under Sections 498-A and 506 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 3 of the Dowry Prohibition Act, 1961 (for short 'the D.P. Act').

2. Mr.Brahmadandi Ramesh, learned Senior Counsel, representing Mr.B.Siva Prasad, learned counsel for the petitioner,

submitted that pursuant to the order, dated 16.07.2026, the learned counsel for the petitioner on record sent notice to respondent No.2 by way of speed post with acknowledgement due and the said notice was returned with a postal endorsement "Refused, returned to sendor" and filed proof of service *vide* Memo in USR No.94347 of 2026 on 04.08.2026. As per Section 27 of the General Clauses Act, 1897, refusal is deemed to be served. Hence, this Court is not having any option except to proceed with the matter in accordance with law.

3. Heard Mr.Brahmadandi Ramesh, learned Senior Counsel, representing Mr.B.Siva Prasad, learned counsel for the petitioner, and Mr.Jithendar Rao Veeramalla, learned Additional Public Prosecutor appearing for respondent No.1-State.

4. Learned counsel for the petitioner submitted that the learned Magistrate took cognizance against the petitioner for the offences under Sections 498-A and 506 of the IPC and Section 3 of the D.P. Act, on 23.09.2023 and issued summons, without recording satisfaction and without assigning any reasons and the same is contrary to the principles laid down by the Hon'ble Supreme Court in **Sunil Bharati Mittal v. Central Bureau of**

Investigation[1] and **Fakhruddin Ahmad v. State of Uttaranchal and another**[2].

5. The said submission has not been opposed by the learned Additional Public Prosecutor.

6. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it reveals that the learned Magistrate on 23.09.2023 without recording satisfaction and without assigning any reasons had taken cognizance and issued summons to the petitioner. Therefore, the docket order dated 23.09.2023 passed by the learned Magistrate is liable to be quashed.

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**[3], the Hon'ble Apex Court found fault with the order of the Magistrate in issuing summons when the Magistrate has not

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[1] (2015) 4 SCC 609
[2] (2008) 17 SCC 157
[3] (2013) 4 SCC 505

recorded his satisfaction about the *prima facie* case against the accused. In **Chief Enforcement Officer v. Videocon International Limited**[4], 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."

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[4] (2008) 2 SCC 492.

8. In **Fakhruddin Ahmad** (*supra*), 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 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.

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 23.09.2023 in C.C. No.1478 of 2023 on the file of the II Additional Junior Civil Judge-cum-VI Additional Judicial Magistrate of First Class, Uppal at Medipally, Medchal Malkajgiri District, is liable to be quashed and accordingly quashed. The learned Magistrate is directed to take cognizance afresh and to proceed with the matter in accordance with law.

11. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

SD/- K. VANI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The II Addl Junior Civil Judge-cum-VI Addl Judicial Magistrate of First class, Uppal, at Medipally, Medchal/Malkajgiri
2. The Station House Officer, Women Police Station, Uppal (Rachakonda), Rachakonda Commissionerate.
3. Two CCs to PUBLIC PROSECUTOR High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to SRI. B SIVA PRASAD Advocate [OPUC]
5. Two CD Copies

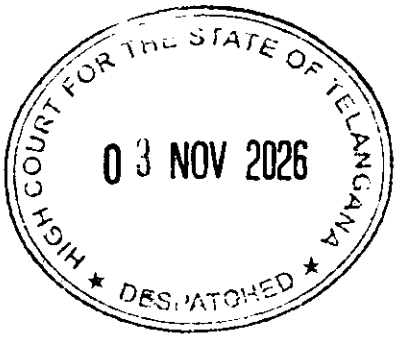
BA/GNK

HIGH COURT

DATED: 28/10/2026

ORDER

CRLP.No.11123 of 2026



DISPOSING OF THE CRIMINAL PETITION

(8)

2/11/26