IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

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

PRESENT

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION NO: 16589 OF 2026

Between:

1. Mohammed Zubair, S/o Abdul Razzaq, Aged 33 yrs, Occ Business
2. Mir Muzaffar Ali, S/o Syed Ibrahim, Aged 44 yrs, Occ Business
   R/o 12-2-338/3, Murad Nagar, Asifnagar, Hyderabad.

...Petitioners/Accused Nos.1 & 2

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court for the State of Telangana, Hyderabad.
2. The Station House Officer, Asifnagar Police Station, Hyderabad.

...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 Crime No.310 of 2026 of Asifnagar Police Station, Hyderabad, insofar as the Petitioners/Accused Nos.1 and 2 are concerned.

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 herein/Accused No.1 & 2 in Crime No.310 of 2026 of Asifnagar Police Station, Hyderabad.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Mr. Khaja Azharuddin, Advocate for the Petitioners and Mr. Jithender Rao Veeramalla, Additional Public Prosecutor on behalf of the Respondents.

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.16589 of 2026
CNR.No. HBHC010693672026
Date: 08.10.2026

Between:
Mohammed Zubair and another

...Petitioners

AND

The State of Telangana and another

...Respondents

ORDER

This Criminal Petition has been filed by the petitioners/accused Nos.1 and 2 seeking to quash the proceedings in FIR No.310 of 2026 of Asifnagar Police Station, Hyderabad, registered for the offences punishable under Sections 272 and 275 of the Bharatiya Nyaya Sanhita, 2023 (for short, "BNS"), Section 20(2) of the Cigarettes and Other Tobacco Products Act, 2003 (for short, "COTPA"), and Section 3 read with Section 14 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (for short "C&AL Act").

2. Heard Mr.Khaja Azharuddin, learned counsel for the petitioners and Mr.Jithender Rao Veeramalla, learned Additional Public Prosecutor for respondents.

3. With their consent, the criminal petition is disposed of at the stage of admission.

4. Learned counsel for the petitioners submitted that the petitioners have not committed the alleged offences and have been falsely implicated in the present crime on the basis of omnibus allegations. Even according to the allegations made in the complaint, the ingredients of Sections 272 and 275 of the BNS, Section 20(2) of the COTPA, and Section 3 read with Section 14 of the C&AL Act are not attracted against the petitioners. He further submitted that no contraband was seized from the petitioners and the petitioners are neither manufacturing nor operating any machinery, nor selling contraband to customers, as alleged in the complaint. Hence, the continuation of proceedings against the petitioners is a clear abuse of the process of law.

4.1. He further submits that the offences levelled against the petitioners are punishable with imprisonment of less than seven years and the Investigating Officer, without following the

mandatory procedure prescribed under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') and without following the guidelines formulated by the Hon'ble Supreme Court in ***Arnesh Kumar Vs. State of Bihar***[1], is proceeding further in the matter and the same is contrary to law.

5. *Per contra*, the learned Additional Public Prosecutor submits that there are specific allegations levelled in the complaint against the petitioners to attract the ingredients of Sections Sections 272 and 275 of the BNS, Section 20(2) of the COTPA, and Section 3 read with Section 14 of the C&AL Act. Whether the allegations levelled in the complaint are true or not the same has to be revealed during the course of investigation especially the investigation is under progress. The petitioners are not entitled to seek quashment of the proceedings against them at this stage. However, since the offences alleged against the petitioners are punishable with imprisonment of less than seven years, the Investigating Officer intends to follow the procedure contemplated under Section 35(3) of the BNSS and the guidelines laid down by the Hon'ble Apex Court in ***Arnesh Kumar (supra)***. However, the petitioners are

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[1](2014) 8 SCC 273

avoiding receipt of notice under Section 35(3) of the BNSS and are not cooperating with the investigation.

6. By way of reply, learned counsel for the petitioners submitted that petitioners will cooperate with the investigation, and submit their reply/explanation along with relevant documents. He further submitted that the Investigating Officer may be directed to follow the due procedure as contemplated under the provisions of the BNSS.

7. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it reveals that the offences levelled against petitioners are punishable with imprisonment of less than seven years. Even according to the learned Additional Public Prosecutor, the Investigating Officer will follow the procedure contemplated under Section 35(3) of the BNSS and also the guidelines formulated by the Apex Court in ***Arnesh Kumar*** (supra).

8. Taking into consideration the peculiar facts and circumstances of the case, the petitioners are directed to appear before the Investigating Officer on or before 15.10.2026 and the Investigating Officer is directed to follow the procedure

contemplated under Section 35(3) of the BNSS and follow the guidelines issued by the Apex Court in ***Arnesh Kumar*** (supra). It is needless to mention that the petitioners are entitled to put forth their grievance, if any, upon receipt of notice under Section 35(3) of the BNSS, and produce all documents available with them before the Investigating Officer. The petitioners shall also cooperate with the investigation.

9. Accordingly, the Criminal Petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

SD/- K. BHAVANI SWAMY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

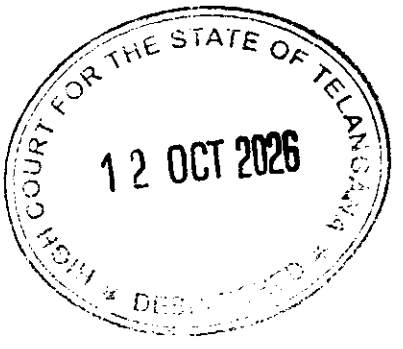
To,

1. The I Additional Chief Judicial Magistrate, Hyderabad City at Nampally.
2. The Station House Officer, Asifnagar Police Station, Hyderabad.
3. One CC to Mr. Khaja Azharuddin, Advocate [OPUC]
4. Two CCs to Public Prosecutor High Court for the State of Telangana, at Hyderabad [OUT]
5. Two CD Copies

KAM/GNK

HIGH COURT

DATED: 08/10/2026



ORDER

CRLP.No.16589 of 2026

DISPOSING OF THE
CRIMINAL PETITION

(8) 12/10/26