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: 17583 OF 2026

Between:

Illya Abhishek, S/o Nageshwar Rao Aged about 42 years, Occ: Business, R/o H.No.30-265/20/J1, Flat No.301, Sreeyan Swarnam Apartments, Sanathapuram, Neredmet, Medchal Malkajgiri District, Telangana State

...Petitioner/Accused No. 1

AND

1. The State of Telangana, Rep. by the Public Prosecutor, High Court at Hyderabad
2. Chilukala Dhanajay, S/o Ramnarayana, Aged about 48 years, Occ: Farmer, R/o Tekpally Village, Khammam Urban, Khammam District, Telangana State

...Respondent/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 against the Petitioner/Accused No.1 in FIR No.30 of 2025 dated 08.01.2025 on the file of Kushaiguda Police Station, Rachakonda Commissionerate, in the interest of justice.

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 Petitioner/Accused No.1 in FIR No.30 of 2025 dated 08.01.2025 on the file of Kushaiguda Police Station, Rachakonda Commissionerate, 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 M A K Mukheed, Advocate for the Petitioner and Sri Jithender Rao Veeramalla, the Additional Public Prosecutor 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.17583 of 2026

C.N.R.No: HBHC010726242026

Date: 28.10.2026

Between:

Illya Abhishek

...Petitioner/Accused No.1

AND

The State of Telangana and another

...Respondents

: ORDER:

This Criminal Petition has been filed by the petitioner/accused No.1 seeking to quash the proceedings in Crime No.30 of 2025 of Kushaiguda Police Station, Rachakonda Commissionerate, registered for the offences punishable under Sections 406, 420, 323, 506 read with 34 of the Indian Penal Code, 1860 (for short, 'IPC').

2. Heard Mr. T.Laxmi Narayana, learned counsel representing Mr. M.A.K.Mukheed, learned counsel for the petitioner, Mr. Mr.Jithender Rao Veeramalla, learned Additional Public Prosecutor, appearing for respondent No.1.

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

4. Learned counsel for the petitioner submitted that the petitioner has not committed the alleged offences and has been falsely implicated in the present crime. The allegations levelled in the complaint are purely civil in nature, in respect of monetary transaction. Respondent No.2 ought to have approached a competent civil Court, on the other hand, lodged the present complaint with an intention to recover the amount due and payable by the petitioner. Learned counsel for the petitioner further relied upon the Judgment of the Hon'ble Supreme Court in ***Delhi Race Club (1940) Ltd. & Ors vs. State of Uttar Pradesh & Anr***[1], wherein it was held that both the offences of cheating and criminal breach of trust cannot go together. Hence the continuation of proceedings against the petitioner is a clear abuse of process of law. The offences levelled against the petitioner are punishable with imprisonment of less than seven years. The Investigating Officer, without following the mandatory procedure prescribed under Section 41A of the Code of Criminal Procedure (for short, 'CrPC')/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***

[1] (2024) 10 SCC 690

Kumar Vs. State of Bihar[2]**,** is proceeding further in the matter and the same is contrary to law.

5. *Per contra*, learned Additional Public Prosecutor submitted that there are specific allegations levelled in the complaint that the petitioner along with other accused, with a dishonest intention, received huge amount of Rs.4,00,00,000/- from respondent No.2. When the de-facto complainant demanded repayment of the amount, the petitioner along with other accused threatened and assaulted respondent No.2 with the assistance of their bouncers and henchmen. Whether the allegations levelled in the complaint are true or not, the same will be revealed during the course of investigation. Since the offences levelled against petitioner are punishable with imprisonment of less than seven years, when the Investigating Officer is trying to serve the notice under Section 41A of the CrPC/35(3) of the BNSS to the petitioner, he is evading the receipt of notice and not cooperating with the investigation.

6. Learned counsel for the petitioner by way of reply submitted that the petitioner will cooperate with the investigation.

7. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it reveals that there are specific allegations levelled in the

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[2](2014) 8 SCC 273

complaint that the de-facto complainant demanded for repayment of amount due and payable by the petitioner, i.e., 4,00,00,000/-. Petitioner threatened and assaulted the respondent No.2 with assistance of their bouncers and henchmen. Whether the allegations made against the petitioner are true or not, the same has to be revealed during the course of investigation, especially the investigation is under progress. The offences levelled against the petitioner are punishable with imprisonment of less than seven years. Even according to the learned Additional Public Prosecutor, the Investigating Officer wants to follow the due procedure as contemplated under the provisions of Section 41A of the CrPC/ 35(3) of the BNSS.

8. Taking into consideration the peculiar facts and circumstances of the case, and submissions made by the respective parties, the petitioner is directed to appear before the Investigating Officer on or before 06.11.2026 and on such appearance, the Investigating Officer is directed to follow the procedure contemplated under the provisions of the Cr.P.C, 1973/BNSS, 2023, and also the guidelines formulated by the Hon'ble Apex Court in **Arnesh Kumar** (*supra*) and the petitioner shall cooperate with the investigation. It is needless to mention that the petitioner is entitled to submit reply to the notice under

Section 41A of the CrPC/35(3) of the BNSS by raising all the pleas which are available to him and he is also entitled to submit the documents, if any, which are in his custody, to the Investigating Officer.

9. Accordingly, the Criminal Petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

SD/- B. REKHA RANI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

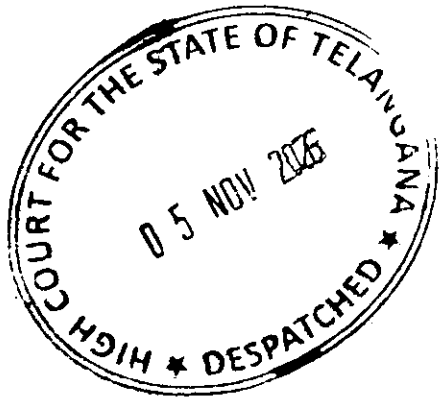
To,

1. The II Additional Junior Civil Judge-cum-II Additional Judicial Magistrate of First Class, Medchal Malkajgiri, at Kushaiguda.
2. The Station House Officer, Kushaiguda Police Station, Rachakonda District.
3. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Sri M A K Mukheed, Advocate [OPUC]
5. Two CD Copies

Sa/GNK

HIGH COURT

DATED: 28/10/2026



ORDER

CRLP.No.17583 of 2026

DISPOSING OF THE CRIMINAL PETITION

(8)
T.P
05/11/26