IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE THIRD DAY OF NOVEMBER TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 18246 OF 2026

Between:

1. Mohammad Khaja Tajuddin, S/o.Mohammad Khaja Shahabuddin, age 32 years, occ: labor work, R/o.19-2-203, Kalapather, Hyderabad.
2. Smt. Razia Sultana, W/o.Mohammad Khaja Shahabuddin, age. 64 years, occ: labor, H.No. 19-2-182/14/9, Ramnas Pura, Kalapather, Hyderabad.

...Petitioner/Accused No. 1 & 2

AND

1. State of Telangana, represented by the Public Prosecutor, High Court of Telangana at Hyderabad.
2. Smt.Afsha Begum, W/o. Mohammad Khaja Tajuddin, age 24 years, occupation: self-employed, R/o. Ramnaspura, Kalapather, 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 CC 216 of 2026 against the petitioners /A1 and A2, pending on the file of Special Judicial Magistrate for Excise Cases, Hyderabad.

I.A. NO: 1 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 grant stay off all the proceedings, including furnishing of sureties and personal appearance on each and every date of hearing before the Special Judicial

Magistrate for Excise Cases, Hyderabad in CC 216 of 2026 till the disposal the criminal petition in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri P Rana Kamalasan, Advocate for the Petitioners 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.18246 of 2026
CNR.No. HBHC010730242026

Date: 03.11.2026

Between:

Mohammad Khaja Tajuddin 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 C.C.No.216 of 2026 on the file of the Special Judicial Magistrate for Excise Cases at Hyderabad.

2. Heard Mr.P.Rana Kamalasan, 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, has taken cognizance against the petitioners and issued summons mechanically and passed cryptic docket order by using rubber stamp. Therefore, the docket order 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 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 against the accused and not against the offences, through docket order.

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, would constitute an offence. It is, therefore, imperative that on a*

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

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 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/- MOHD. ISMAIL
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Special Judicial Magistrate for Excise Cases, Hyderabad.
2. The Special Judicial First Class Magistrate for Excise Cases at Hyderabad.
3. The Station House Officer, Kalapathar Police Station, Hyderabad.
4. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
5. One CC to Sri P Rana Kamalasan, Advocate [OPUC]
6. Two CD Copies

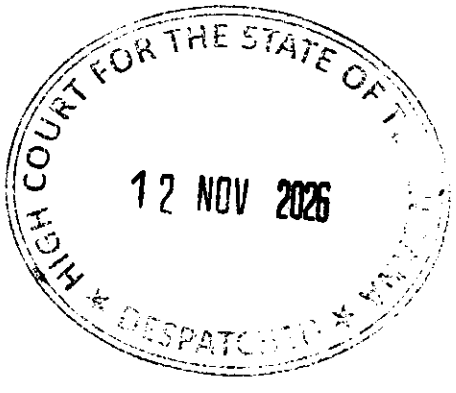
Sa/GNK

HIGH COURT

DATED: 03/11/2026

ORDER

CRLP.No.18246 of 2026



DISPOSING OF THE CRIMINAL PETITION