IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION NO: 17540 OF 2025

Between:

Gowtham Kapoor, S/o. Late. Ambika Prasad Kapoor, Age. 63 years, Occ. Business, R/o. F.No.16, Sahodara Mansion, P.No.5, Kirlampudi Layout, Vishakapatnam.

...Petitioner/A.1

AND

1. The State of Telangana, Rep. by the it's Public Prosecutor, High Court at Hyderabad (Through SHO, Borabanda, Hyderabad)
2. B.R. Rao, S/o. Late Srinivasa Rao, Age: 71 years, Occ: Business, R/o. H.No.15, Sylvan Greens, J.J. Nagar, Yapral, Secunderabad
   (died to the best of knowledge and information to the petitioner/A.4 and subject to verification by the Respondent No.1)

...Respondents/De-facto 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 C.C.No.480 of 2016 on the file of XII Addl. Chief Metropolitan Magistrate at Hyderabad, as against the petitioner/A.1 in the interest of justice.

I.A. NO: 2 OF 2025

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 appearance of the petitioner/A.1 in C.C.No.480 of 2016 on the file of XII Addl. Chief Metropolitan Magistrate at Hyderabad, pending disposal of this 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 Mrs. Devineni Radha Rani, Advocate for the Petitioner and Mr. Jithender Rao Veeramalla, Additional Public Prosecutor on behalf of the Respondent No.1.

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.17540 of 2025

Date: 20.04.2026

Between:

Gowtham Kapoor

...Petitioner

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 C.C. No.480 of 2016 on the file of the XII Additional Chief Metropolitan Magistrate at Hyderabad, for the offences punishable under Sections 406, 417, 418, 420 and 422 of the Indian Penal Code, 1860.

2. Heard Mrs.Devineni Radha Rani, learned counsel for the petitioner, and Mr. Jithendar Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1.

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

3. Learned counsel for the petitioner submitted that the learned Magistrate without recording *pima facie* satisfaction and without assigning any reasons has taken cognizance on 31.12.2016 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].

4. The above said submissions are not disputed by the learned Additional Public Prosecutor.

5. 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 31.12.2016 without recording satisfaction, especially taken cognizance against the accused and not against the offences.

6. 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**

[1] (2015) 4 SCC 609

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

7. 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."*

8. 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.

9. 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.480 of 2016 pending on the file of the XII Additional Chief Metropolitan Magistrate at Hyderabad, is

[4] (2008) 17 SCC 157

liable to be quashed and accordingly quashed. However, this order will not preclude the learned Magistrate from taking cognizance and proceed in accordance with law.

10. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

SD/- P.C.SULEKHA DEVI
ASSISTANT REGISTRAR

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SECTION OFFICER

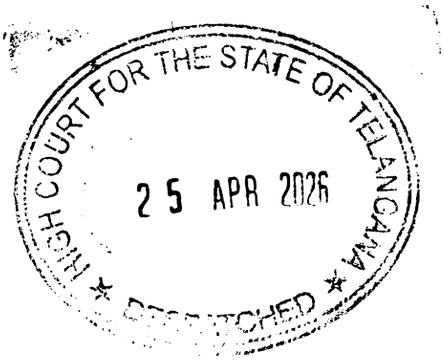
To,

1. The XII Addl. Chief Metropolitan Magistrate at Hyderabad
2. The Station House Officer, CCS, DD, Hyderabad Police Station, Hyderabad District.
3. One CC to Mrs. Devineni Radha Rani, Advocate [OPUC]
4. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
5. Two CD Copies

KAM/KA

HIGH COURT

DATED: 20/04/2026



ORDER

CRLP.No.17540 of 2025

DISPOSING OF THE CRIMINAL PETITION

8 copies
25/4/26