

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE THIRTY FIRST DAY OF JANUARY TWO THOUSAND AND TWENTY FIVE

**:PRESENT:
THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI**

**IA No. 1 OF 2025
IN
CRLP NO: 1281 OF 2025**

Between:

Chillara Kalyan, S/o Late Chillara Kotaiah Naidu, Occ. Film Producer, R/o 8-2-293/82/A/31-B/G1, Road No.5, Jubilee Hills, Hyderabad.

...Petitioner/Accused No.1
(Petitioner in CRLP 1281 OF 2025
on the file of High Court)

AND

AND

1. The State of Telangana, Represented through Public Prosecutor, High Court for the State of Telangana At Hyderabad.

..Respondent No.1/Complainant

2. Mitta Gopi Krishna, S/o M. Vidya Sagar, Occ Business, R/o H.No.93, Postal Colony, Tirumalagiri, Secunderabad.

...Respondent No.2/Defacto Complainant
(Respondents in-do-)

Counsel for the Petitioners : SRI G. Ashok Reddy

**Counsel for the Respondent No.1 : Sri V. Jithendar Rao, Addl. PUBLIC
PROSECUTOR**

Petition under Section 528 of BNSS praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to grant STAY of all further proceedings against the Petitioner/ Accused No. 1, including his appearance, in C.C.No. 9405 of 2021 on the file of the III Addl. Chief Metropolitan Magistrate, Hyderabad pending disposal of CRLP No. 1281 of 2025, on the file of the High Court.

The Court made the following

ORDER:

This application is filed by the petitioner/ accused No.1 seeking to grant stay of all further proceedings, including his appearance, in C.C.No.9405 of 2021 on the file of the III Additional Chief Metropolitan Magistrate, Hyderabad, pending disposal of the criminal petition.

Heard Sri G.Ashok Reddy, learned counsel for petitioner and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for the respondent-State.

Learned counsel for petitioner submits that the petitioner is innocent and has been falsely implicated in the case. The petitioner was neither acquainted with nor has any association with co-accused in the crime. He was neither present at the scene of offence at the time of alleged incident nor participated in the alleged incident in furtherance of a common intention. He further submits that there is no material to suggest any pre-arranged plan or meetings between petitioner/ accused No.1 and other accused. The allegations levelled against the petitioner are only on hearsay evidence, which is inadmissible in law. Apart from hearsay evidence, there is no specific or corroborative allegation against him. He further submits that the property in question does not qualify as a 'house', as it is a commercial premises used as an organic store, hence, the offence under Section 448 of IPC is not made out. He further submits that without credible material showing the presence of petitioner at the scene and his active involvement, the provision of Section 34 of IPC cannot be invoked.

In support of his contention, learned counsel for petitioner relied on the judgment of *Shreekantiah Ramayya Munipalli v. State of Bombay*¹, wherein, the Hon'ble Supreme Court held that the physical presence of the accused at scene of occurrence and his actual participation in commission of offence in some way or other is must and if accused was not present when offence was committed, he cannot be convicted with the aid of Section 34 of IPC. When a criminal act is done by several persons, it is essential that accused persons joined in the actual doing of the act and not merely in planning its perpetration.

Hence, learned counsel prayed to grant stay of all further proceedings.

On the other hand, learned Additional Public Prosecutor opposed the application stating that specific allegations are levelled against the petitioners.

Having heard both sides and perused the material on record, it is apparent that the petitioner/ accused No.1 was not present at the scene of occurrence at the time of alleged incident and there is no material to suggest any pre-arranged plan or meetings between the petitioner/accused No.1 and other accused. Furthermore, the allegations levelled against the petitioner are only on hearsay evidence.

In the said circumstances and in view of the law laid by the Hon'ble Supreme Court in the aforesaid judgments, there shall be stay of all further proceedings against the petitioner/accused No.1, including his appearance, in C.C.No.9405 of 2021 on the file of the III Additional Chief Metropolitan Magistrate, Hyderabad, till 27.03.2025.

//TRUE COPY//

SD/-V.KAVITHA
ASSISTANT REGISTRAR

SECTION OFFICER

¹ (1954) 2 SCC 992

To,

1. The III Additional Chief Metropolitan Magistrate, Hyderabad.
2. The Station House Officer, P.S. Banjarahills, Hyderabad.
3. Mitta Gopi Krishna, S/o M. Vidya Sagar, Occ Business, R/o H.No.93, Postal Colony, Tirumalagiri, Secunderabad. (BY RPAD)
4. One CC to Sri G. Ashok Reddy, Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR, High Court at Hyderabad. (OUT)
6. One spare copy

HIGH COURT

JS,J

DATED:31/01/2025

ORDER

I.A.NO. 1 OF 2025
IN
CRLP.No. 1281 of 2025



STAY