

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION NO: 4114 OF 2026

Between:

1. Mohammad Fariuddin,, S/o. Khaja Mohinuddin, Aged about 51 years, Occ. Real Estate Agent, R/o.H.No.1-3-23, Budidagadda, Kothagudem.
2. Kunamneni Sambashivarao,, S/o. Venkata Rathaiah, Aged about 71 years, Occ. MLA, R/o. H.No.3-2-172, Vidyanagar Colony, Chunchupalli Mandal, Bhadradi Kothagudem District.

...PETITIONER/ACCUSED NOS. 1 & 2

AND

1. The State of Telangana,, Rep.by its Public Prosecutor, High Court for the State of Telangana, Hyderabad.

....RESPONDENT

2. State through the Police,, Sub-Inspector of Police, Kothagudem (3) Town P.S.
3. Palapati Rakesh,, S/o. Kondal Rao, Aged about 32 years, Occ. Mandal Agriculture Officer, R/o. Laxmidevipalli Village and Mandal, Bhadradi Kothagudem District.

...RESPONDENTS/DEFACTO COMPLAINANTS

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 C.C.No.209 of 2025 on the file of the Special JFCM for Excise Cases at Manoranjan Complex, Nampally, 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 stay all further proceedings in C.C.No.209 of 2025 on the file of the Special JFCM for Excise Cases at Manoranjan Complex, Nampally, Hyderabad including appearance of the Petitioners / Accused Nos.1 and 2, pending finalization of the Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri KADARU PRABHAKAR RAO , Advocate for the Petitioner and the Additional Public Prosecutor (TG) on behalf of the Respondent No. 1 & 2 and none for the Respondent No. 3

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.4114 of 2026

DATE: 30.04.2026

BETWEEN:

Mohammad Fariuddin and another

.....petitioners/accused Nos.1 and 2

And

The State of Telangana,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
at Hyderabad and others.

.....Respondent/complainant

ORDER

This Criminal Petition is filed seeking to quash the proceedings against the petitioners/accused Nos.1 and 2 in C.C.No.209 of 2025 on the file of the learned Special Judicial Magistrate of First Class for Excise Cases, Manoranjan

Complex, Nampally, Hyderabad, registered for the offences punishable under Sections 188, 171(E) of IPC and Section 123(1) of RP Act.

2. The brief facts of the case are that on 30.11.2023, while performing election surveillance duty as part of the Flying Squad Team (FST) during the Telangana Legislative Assembly elections, the complainant apprehended Accused No.1 near Mujeeb Pan Shop, Medarabasti, Kothagudem, on credible information that he was distributing money to voters to influence them in favour of Accused No.2, a contesting candidate. On interception, Accused No.1 allegedly confessed to distributing cash on the instructions of Accused No.2, and an amount of Rs.17,000/- along with voter lists was seized under a panchanama in the presence of mediators. Based on the said incident, a case in Crime No.231 of 2023 was registered for offences under Sections 188 and 171(E) IPC and Section 123(1) of the Representation of the People Act, and after investigation, charge sheet was filed, which culminated in C.C. No.209 of 2025 before the Special Judicial First Class Magistrate for Excise Cases, Hyderabad.

3. Heard Sri K. Prabhakar Rao, learned counsel appearing on behalf of the petitioners as well as Sri M. Ramachander Reddy, learned Additional Public Prosecutor appearing on behalf of the respondent - State. Though notice served upon respondent No.3, none appeared on behalf of him.

4. Learned counsel for the petitioners submitted that there is no prima facie material to attract the alleged offences and the charge sheet is based on assumptions and inadmissible confession and that the essential ingredients of Section 188 IPC are not satisfied as there is no promulgated order or its wilful disobedience. With regard to Section 171(E) IPC and Section 123(1) of the R.P. Act, it is submitted that mere recovery of cash does not establish bribery in the absence of proof of offer or acceptance by voters, and there is no material to show that Accused No.1 acted as an agent of Accused No.2. He contended that no independent witnesses are examined and the case is based only on official witnesses, thereby rendering the prosecution case weak and liable to be quashed as an abuse of process of law.

5. Learned Additional Public Prosecutor opposed the petition, contending that the material collected during

investigation clearly establishes that Accused No.1 was caught red-handed while distributing money to voters on the instructions of Accused No.2 and that the seizure of cash and voter lists, coupled with the statements of the complainant and other witnesses, prima facie disclose the commission of offences. He asserted that there is sufficient material to proceed with trial and that the grounds raised by the petitioners are matters of defence, which cannot be considered at the stage of quash and prayed the Court to dismiss the Criminal Petition.

6. In the light of the submissions made by both the learned counsel and a perusal of the material available on record, it appears that the petitioners was charged for the offences punishable under Sections 188 and 171(E) of the Indian Penal Code, 1860 and Section 123(1) of R.P. Act. It is specifically contended by the learned counsel for the petitioners that as there is a bar under Section 195 (1) (a) of Cr.P.C., whereunder, a written complaint has to be filed by the public servant/authorized officer, the Police has to follow the same, but the same is not followed in the present case. Further, at this stage, it is imperative to note the relevant Sections, which are as follows:

7. Section 188 of the I.P.C reads as follows:

Section 188: Disobedience to order duly promulgated by public servant.

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation: It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration: An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section".

8. Section 195(i) (a) of Cr.P.C., reads as under:-

“(i) (a) of any offence punishable under Sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;”

9. Reverting to the facts of the case on hand, a perusal of Section 188 of IPC makes clear that to take cognizance there should be a written complaint and such complaint should be filed either by the officer issuing such promulgation order or the officer above his rank. Further, Section 2 (d) of Cr.P.C., defines complaint as allegations made orally or in writing to the Magistrate with a view to the Magistrate taking action on such complaint, the Magistrate can take cognizance under Section 190 (1)(a) of Cr.P.C.. Thereafter, the procedure prescribed under Section 200 of Cr.P.C has to be followed. Therefore, the first information report, charge sheet and the order taking cognizance on such charge sheet are without jurisdiction.

10. Further, it is significant to note the judgement of the Honourable Supreme Court in **State of Karnataka v. Hermareddy**¹, wherein in paragraph No.8, it is held as under:

"8. We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a Court is necessary under Section 196 (1)(b) of the Code of Criminal Procedure and an offence for which a complaint of a Court is necessary under that sub-section, are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 196 (1)(b) of the Code of Criminal Procedure should be upheld"

(Emphasis supplied)

11. In the instant case, a perusal of the charge sheet discloses that the petitioners are sought to be prosecuted for the offence punishable under Section 188 of IPC including other penal provisions i.e., 171(E) of IPC. As per the judgment of the Hon'ble Supreme Court in **Hermareddy** (supra) it is clear that if the offences formed part of the same transaction of the offences contemplated under Section 191 of Cr.P.C., it is not possible to split up and hold the prosecution of accused for the other offences. Further, upon a prima facie consideration of the material on record, this Court observes that the essential

¹AIR 1981 SC 1417

ingredients of Section 123(1) of the Representation of the People Act are not made out, inasmuch as there is no specific allegation or material to show any direct or indirect offer or gratification by the candidate or his authorized agent to induce any voter to vote in his favour. In view of the above, the FIR culminating in taking cognizance of the aforesaid offences stands vitiated. Hence, continuation of criminal proceedings against the petitioners is nothing but abuse of process of law.

12. Accordingly, the criminal petition is allowed and the proceedings against the petitioners in C C.C.No.209 of 2025 on the file of the learned Special Judicial Magistrate of First Class for Excise Cases, Manoranjan Complex, Nampally, Hyderabad, are hereby quashed.

Miscellaneous applications, if any pending, shall also stand closed.

SD/- P.C.SULEKHA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Special Judicial First Class Magistrate for Excise Cases at Manoranjan Complex, Nampally, Hyderabad
2. The II Additional Judicial First Class Magistrate at Kothagudem.
3. The Station House Officer, Kothagudem (3) Town P.S. Bhadradi Kothagudem District.

4. One CC to SRI. KADARU PRABHAKAR RAO Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR High Court for the State of Telangana,
at Hyderabad [OUT]
6. Two CD Copies

TL/KA

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HIGH COURT

DATED: 30/04/2026

ORDER
CRLP.No.4114 of 2026



ALLOWING THE CRIMINAL PETITION.

9 copies
for
20/5/26