

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 5209 OF 2026

Between:

1. Sudharkar, S/o. Durgesh Aged about 32 Years, Occ. Washer in India Reserve Battalion Police R/o. Ward No.2, Munirabad Dam, Holimudiapur, Koppal, Karnataka - 583233.[Husband of Respondent No2.]
2. Smt. Laxmi Bai, W/o. Durgesh Aged about 50 Years, Occ. Housewife R/o. Ward No.2, Munirabad Dam, Holimudiapur, Koppal, Karnataka -583233. [Mother in law of Respondent No. 2]
3. Durgesh, S/o. Mallaiah Aged about 60 Years, Occ. Pensioner R/o. Ward No.2, Munirabad Dam, Holimudiapur, Koppal, Karnataka - 583233. [Father in law of Respondent No.2]
4. Mallaiah, S/o. Durgesh Aged about 36 Years, Occ. Agriculturist R/o. Ward No.2, Munirabad Dam, Holimudiapur, Koppal, Karnataka - 583233. [Brother - in -law of Respondent No. 2]
5. Shekar, S/o. Durgesh Aged about 30 Years, Occ. Gram Panchayat Member R/o. Ward No.2, Munirabad Dam, Holimudiapur, Koppal, Karnataka - 583233. [Brother - in - law of Respondent No.2]

AND

...Petitioner/Accused 1 to 5

1. The State of Telangana, Through SHO PS - PS -WPS, DD, Rep by its Public Prosecutor, High Court at Hyderabad.
2. Divya, W/o. Sudhakar Aged about 24 Years, Occ. House Wife R/o. H.No. 8-3-231/B/26, Sri Krishna Nagar, Yousufguda, Hyderabad.

...Respondent/Complainant

Petition under Section 528 of B.N.S.S. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the criminal proceedings against the Petitioners herein i.e. Accused No. 1 to 5 in CC.No.7718 of 2020 on the file of XIII CHIEF METROPOLITAN MAGISTRATE At Nampally in Crime No. 433 of 2019 of PS — WPS CC DD for the alleged offence U/Sec.section 498-A, 506, of IPC Section 4& 6 of DP Act.

I.A. NO: 1 OF 2026

Petition under Section 528 of B.N.S.S. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings against the Petitioners/Accused in CC.No. 7718 OF 2020 on the file of XIII CHIEF METROPOLITAN MAGISTRATE At Nampally in Crime No. 433 of 2019 of PS — WPS DD CC for the alleged offence U/Sec.498-A, 506, of IPC Section 4 & 6 of DP Act.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri C Parusharam Goud, Advocate for the Petitioners and the Sri Jitender Rao Veeramala, 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.5209 of 2026

Date: 08.04.2026

Between:

Sudharkar and four others

...petitioners/accused Nos.1 to 5

AND

The State of Telangana,
Through SHO, PS-WPS, DS,
Rep. by its Public Prosecutor,
High Court at Hyderabad and another

...respondents

ORDER

This Criminal Petition is filed by the petitioners/accused Nos.1 to 5 seeking to quash the proceedings in C.C.No.7718 of 2020 pending on the file of the XIII Chief Metropolitan Magistrate at Nampally, for the offences punishable under Sections 498-A, and 506 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 4 and 6 of the Dowry Prohibition Act, 1961.

2. Heard Sri G. Parashuram, learned counsel for the petitioners and Sri 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 ripened for the trial yet and is at the stage of examination of accused. 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 and without assigning any reasons has taken cognizance and issued summons to the petitioners and the same is contrary to the principle laid down in *Sunil Elarati Mittal v. Central Bureau of Investigation*¹.

5. The above said submissions are not opposed by the learned Additional Public Prosecutor.

6. 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

¹ (2015) 4 SCC 609

without applying his mind and without assigning any reasons, especially taken cognizance against the accused and not against the offences through cognizance order passed in C.C.No.7718 of 2020.

7. 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 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

² (2013) 4 SCC 505

³ (2008) 2 SCC 492

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."

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

⁴ (2008) 17 SCC 157

be an order reflecting application of mind by the Presiding Officer while taking cognizance and issuing process.

10. 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.7718 of 2020 pending on the file of the XIII Chief Metropolitan Magistrate at Nampally, is liable to be quashed and accordingly quashed. However, this order will not preclude the learned Magistrate from taking cognizance and passing orders afresh in accordance with law, by giving reasons.

11. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

SD/- N.SRIHARI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XIII Chief Metropolitan Magistrate At Nampally
2. The Station House Officer Police Station -WPS, DD,
3. One CC to SRI. G PARUSHARAM GOUD Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR High Court for the State of Telangana, at Hyderabad [OUT]
5. Two CD Copies

BA/PSL

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cc today

HIGH COURT

DATED: 08/04/2026



ORDER

CRLP.No.5209 of 2026

DISPOSING OF THE CRIMINAL PETITION

⑧ copies

J/S

dt: 13/4/26