

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

**TUESDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 6637 OF 2026

Between:

Mr.Kondra Venkata Upender, S/o K.V.Yakaiah, Age 45 years Occ: Retd. Govt. employee (Singareni), R/o H.No.8-158, Bhagath Singh Nagar, Srirampur Colony, Manchiryala, Adilabad District

...Petitioner/Accused No.1

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court Buildings, Hyderabad
2. Smt.Kondra Venkata Lavanya, W/o K.V.Upender, Age 42 years, Occ: Pvt. employee R/o H.N.12-14-392/5, Vinobha Nagar, Osmania University, 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 call for the records pertaining to the C.C. No.9142 of 2022 on the file of the XIII Additional Chief Metropolitan Magistrate Court at Nampally and quash the same as against the Petitioner/A1 in the interest of justice.

I.A. NO: 3 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 of all further proceedings in Charge sheet in C.C. No.9142 of 2022 on the file of the XIII Additional Chief Metropolitan Magistrate Court at Nampally Hyderabad including appearance of the Petitioner 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 Kuriti Bhaskara Rao, Advocate for the Petitioner 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.6637 of 2026

Date: 28.04.2026

Between:

Mr. Kondra Venkata Upender

...Petitioner/accused No.1

AND

The State of Telangana and another

...Respondents

Order:

This Criminal Petition has been filed seeking to quash the proceedings in C.C.No.9142 of 2022, on the file of the XIII Additional Chief Metropolitan Magistrate Court at Nampally, the petitioner was arrayed as accused No.1, for the offences punishable under Sections 498-A, 406 and 506 of the Indian Penal Code, 1860 and Sections 3 and 4 of The Dowry Prohibition Act, 1961.

2. Heard Mr. Kuriti Bhaskara Rao, learned counsel for the petitioner and Mr.Jithendar Rao Veeramalla, learned Additional Public Prosecutor appearing on behalf of respondent No.1. With their consent, the criminal petition is disposed of at the admission stage on

the ground that even according to the learned counsel for the petitioner, the matter before the trial Court is not yet ripened for trial. In view of the same, notice in respect of respondent No.2/*de facto* complainant is dispensed with.

3. During the course of hearing, learned counsel for the petitioner submitted that the learned Magistrate without recording satisfaction and without assigning any reasons has taken cognizance 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 opposed 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 without recording satisfaction and without assigning any reasons, especially taken cognizance against the accused and not against the offences through cognizance order passed in C.C.No.9142 of 2022.

¹ (2015) 4 SCC 609

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 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 Enforcement 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

² (2013) 4 SCC 505

³ (2008) 2 SCC 492

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."

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

⁴ (2008) 17 SCC 157

going into the other grounds, this Court is of the considered view that cognizance order passed in C.C.No.9142 of 2022, on the file of the XIII Additional Chief Metropolitan Magistrate Court 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.

10. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

SD/- K.BHAVANI SWAMY
ASSISTANT REGISTRAR

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SECTION OFFICER

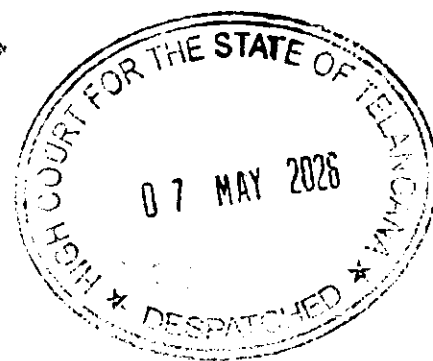
To,

1. The XIII Additional Chief Metropolitan Magistrate Court at Nampally.
2. The Station House Officer, WPS CCS, DD Police Station, Hyderabad City.
3. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Sri Kuriti Bhaskara Rao, Advocate [OPUC]
5. Two CD Copies

SA/KA

HIGH COURT

DATED: 28/04/2026



ORDER

CRLP.No.6637 of 2026

DISPOSING OF THE CRIMINAL PETITION

(8) MT
7/5/26