



2026:TSHC:5845
[3303]

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

**FRIDAY, THE TWENTY FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 6363 OF 2026

Between:

Gayaru Vishwanatham, S/o Mallaji, Aged about 60 years, occ. Farmer, R/o Vanjariwada, Edulabad Village of Ghatkesar Mandal, Medchal-Malkajgiri district.

...Petitioner/Accused

AND

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

...Respondent

2. Kaleru Srinivas, S/o Venkaiah, Aged about 55 years, occ. Business, R/o H.No. 2-3-512/92/A, Bapu Nagar, Amberpet, Hyderabad District.

...Respondent/Complainant

Petition under Section 5287 R/W, 72(2) OF BNSS 2023 praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Recall/cancel the N.B.Ws issued against the Petitioner/Accused in docket order on 26-8-2025-and 10-4-2026 in STC NI No. 156 of 2025 on the file of II Additional Junior Civil Judge cum VI Additional Judicial Magistrate of First Class Medchal-Malkajgiri district pending disposal of the Criminal Petition.

I.A. NO: 2 OF 2026

Petition under Section 5287 R/W, 72(2) OF BNSS 2023 praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Stay of all and further proceedings, including execution of N.B.Ws issued against the Petitioner/Accused in docket order on 26-8-2025 and 10-4-2026 in STC NI No. 156 of 2025 on the file of II Additional Junior Civil Judge cum VI Additional Judicial Magistrate of first Class Medchal-Malkajgiri district pending disposal of the Criminal Petition.



2026:TSHC:5845

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Samala Ravendar, Advocate for the Petitioner and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor on behalf of the Respondent No.1 and none appeared for the Respondent No.2.

The Court made the following: ORDER



2026:TSHC:5845

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

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.6363 of 2026

Date: 24.04.2026

Between:

Gayaru Vishwanatham

...Petitioner

AND

The State of Telangana and another.

...Respondents

Order:

This Criminal Petition has been filed aggrieved by the docket orders dated 26.08.2025 and 10.04.2026 passed by the II Additional Junior Civil Judge-cum-VI Additional Judicial Magistrate of First Class, Medchal-Malkajgiri District, in STC NI No.156 of 2025, where under the trial Court issued NBW against the petitioner and appointed one Mr.K.Srinivas, as Advocate-Commissioner to execute the same

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



3. Notice in respect of respondent No.2 is dispensed with, as the petitioner is not seeking any relief against him.
4. Learned counsel for the petitioner submitted that the petitioner is an accused in STC NI.No.156 of 2025, for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') and the petitioner has not received summons in the said case. On the other hand, the trial Court issued NBW against the petitioner and he came to know about the issuance of NBW only in the second week of April, 2026 after appointing the Advocate-Commissioner to execute the NBW.
5. He further submitted that in the absence of effective service of summons, the trial Court ought not to have issued NBW against the petitioner. Even after service of summons, in the event the petitioner failed to appear before the trial Court, the trial Court ought to have issued NBW. On the other hand, the trial Court straight away issued NBW on 26.08.2025 and the same is contrary to law.
6. He also submitted that when this Court raised a query as to why the petitioner did not file any application before the trial Court seeking recall the NBW, as per the provisions of Section 70(2) of Cr.P.C./72(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'the BNSS'), learned counsel for the petitioner submitted



that the trial Court is insisting the physical presence of the petitioner.

7. He further submitted that the petitioner, who is aged about 60 years, is eking out his livelihood by doing agriculture and he is suffering with health problems. In view of the same, the petitioner may be permitted to file an application to recall the NBW issued against him, before the trial Court, and the trial Court may be directed to consider the same in the absence of the petitioner. In support of his contention, he relied upon the order dated 20.12.2023 passed by this Court in Criminal petition No.12140 of 2023, wherein it was held that the presence of the petitioner is not required to consider the application seeking to recall the NBW.

8. *Per contra*, learned Additional Public Prosecutor submitted that the petitioner without availing the remedy available under law straight away approached this Court and filed the present criminal petition and the same is not maintainable under law.

9. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that on 26.08.2025, the trial Court issued NBW against the petitioner and posted the matter to 25.09.2025, wherein it is specifically mentioned that the petitioner/accused is absent, no representation in spite of summons served. Learned



counsel for the petitioner has not placed any contra evidence to show that the petitioner has not received the summons. In view of the same, this Court is not inclined to accept the submissions made by the learned counsel that the petitioner has not received summons from the trial Court.

10. It is also relevant to mention that as per the provisions of Section 70(2) of Cr.P.C./72(2) of the BNSS, the petitioner is entitled to file an application before the same Court for recalling NBW issued against the petitioner on 26.08.2025. Without availing the said remedy, the petitioner had approached this Court and filed the present criminal petition.

11. Taking into consideration of the peculiar facts and circumstances, the age and occupation of the petitioner and also the principle laid down by the Madurai Bench of Madras High Court in the case of **R.Sundar vs. The Sub Inspector of Police, Lalgudi police Station, Lalgudi, Lalgudi Taluk, Trichy District¹**, wherein it was observed that the presence of the accused need not be insisted upon during the proceedings for recall of NBW, the petitioner is granted liberty to file an application invoking the provisions of Section 70(2) of Cr.P.C./Section 72(2) of the BNSS, seeking recall of NBW issued against him on 26.08.2025. On such application, the trial Court is directed to consider the same and

¹ CrI.R.C.(MD)No.1105 of 2023 and CrI.M.P.(MD)No.14125 of 2023 dt. 26.10.2023



pass appropriate orders in accordance with law within a period of two (2) days from the date of filing of such application even in the absence of the petitioner.

12. With the above direction, the criminal petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

//TRUE COPY//

**SD/- K.V.O. NARSI BABU
ASSISTANT REGISTRAR**

SECTION OFFICER

To,

1. The II Additional Junior Civil Judge cum VI Additional Judicial Magistrate of First Class Medchal-Malkajgiri district.
2. The Station House Officer, Uppal Police Station, Hyderabad
3. Two CCs to the Public Prosecutor, High Court of Telangana at Hyderabad [OUT]
4. One CC to Sri Samala Ravendar, Advocate [OPUC]
5. Two CD Copies

GNK

Kr



2026:TSHC:5845

HIGH COURT

DATED: 24/04/2026



ORDER

CRLP.No.6363 of 2026

DISPOSING THE CRIMINAL PETITION

*8 copies
kg
28/4/26*