

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

**WEDNESDAY, THE TWENTY SIXTH DAY OF OCTOBER,
TWO THOUSAND AND TWENTY TWO ✓**

**:PRESENT:
THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI ✓**

CONTEMPT CASE NO: 823 OF 2022 ✓

Between:

1. Abu Baker Bin Mubarak, S/o. Mubarak Bin Omer. ✓
2. Omer Bin Mubarak, S/o. Mubarak Bin Omer. ✓
3. Ahmed Bin Jeelani, S/o. Jeelani Bin Abdullah ✓

Petitioners

AND

1. Sri Gaja Rao Bhoopal, IPS, Occ: Deputy Commissioner of Police, South Zone, Hyderabad, having office at Chatta Bazar, Hyderabad. ✓
2. Sri B.Andna, Occ: Asst. Commissioner of Police, Mirchowk Division, Hyderabad. ✓
3. A.Ravi Kumar, Occ: Inspector, Mir Chowk Division, Hyderabad, Moghalpura P.S. ✓
4. N.Dharma, Sub Inspector of Police, P.S. Moghalpura, Hyderabad. ✓

Respondents

WHEREAS the petitioners have presented the Contempt Case under Sections 10 to 12 of the Contempt of Courts Act, 1971, through their Counsel Sri Mohd. Adnan, praying the High Court to punish the respondents for deliberate and willful violation of the directives of the Honorable Supreme Court of India in the case of Arnesh Kumar Vs. State of Bihar reported in AIR (SC) 2014-0-2756 in Crime No.207 of 2021 of P.S. Moghalpura, Hyderabad; ✓

Counsel for the Petitioners : SRI MOHD. ADNAN ✓

Counsel for the Respondents : GOVT. PLEADER FOR HOME & LAW ✓

WHEREAS the said case coming on for hearing, and whereas the High Court, upon perusing the affidavit filed therein, and the earlier order dated 08-07-2022, made the following; ✓

ORDER:

“Learned counsel for the petitioner submits that Crime No. 207 of 2021 was registered against the petitioner on 29.01.2021 for the offences under Sections 452, 427, 506 and 324 read with Section 34 IPC. He submits that punishment for the said offences is below seven years. It is submitted that on 01.11.2021, according to the police, they have issued notice under Section 41-A Cr.P.C. and as the petitioner was threatening the complainant, they have arrested the petitioner on 21.12.2021. Learned counsel submits

that this is in clear violation of the guidelines issued by the Hon'ble Apex Court in *Arnesh Kumar v State of Bihar* (2014 (8) SCC 273). The petitioner has made the Deputy Commissioner, Assistant Commissioner, Inspector of Police, Mir Chowk Division and Sub-Inspector of Police, Moghalpura Police Station as contemnors to this case. Learned counsel submits that even as per the guidelines issued by the Apex Court, while arresting the accused, there should be a checklist mentioning the reasons and the check list cannot be a stereotypic one but it should be specific to the particular case. He further submits that the Magistrate shall also be convinced with the check-list and then only the accused can be remanded.

A counter-affidavit has been filed on behalf of all the four respondents. As far as Respondents 1, 2 and 3 are concerned, this Court is of the view that they cannot be punished for violation of the guidelines issued by the Hon'ble Apex Court in *Arnesh Kumar's* case. As far as the 4th respondent is concerned, in the counter-affidavit as well as in the remand report, admitted the fact that they have issued Section 41-A notice, arresting the accused on the next day itself is in clear violation of the guidelines in *Arnesh Kumar's* case as well as violation of Section 41-A Cr.P.C.. The counter and even the check-list that is provided along with the counter is also not satisfactory.

Further, learned counsel for the petitioner has drawn attention of this Court to the remand order wherein the learned Judge i.e. VIII Additional Chief Metropolitan Magistrate at Hyderabad while remanding the accused on 02.12.2021 has observed that the police after following the procedure and satisfying with the reason for arrest of the accused have produced the accused before the Court and the Magistrate has also verified the check-list and after carefully going through the entire material and after satisfying with the reasons for arrest, ordered remand till 16.02.2021. It appears, the learned Judge failed to appreciate both the guidelines issued by the Hon'ble Apex Court as well as the provision under Section 41-A Cr.P.C, when the respondent police without even bringing it to the notice of the Magistrate has straight away arrested the accused after issuing notice under Section 41-A Cr.P.C.

Hence, Registry is directed to call for a report from Ms. Nazeem Sultana, VII Additional Chief Metropolitan Magistrate, in-charge of VIII Additional Chief Metropolitan Magistrate, Hyderabad who has remanded the accused whether she has complied with the guidelines of Hon'ble Apex Court in *Arnesh Kumar's* case and place the same before this Court by 23.11.2022.

Post on 23.11.2022."

SD/- M. RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. Ms. Nazeem Sultana, VII Additional Chief Metropolitan Magistrate, in-charge of VIII Additional Chief Metropolitan Magistrate, Hyderabad. (BY SPL. MESSENGER) ✓
2. The Section Officer, OS Section, High Court of Telangana, at Hyderabad ✓
3. Two CCs to GP for Home & Law, High Court of Telangana, at Hyderabad (OUT) ✓
4. One CC to Sri Mohd. Adnan, Advocate (OPUC) ✓
5. One Spare Copy ✓

HIGH COURT

LK,J

DATE: 26-10-2022

NOTE: POST ON 23-11-2022

ORDER

C.C. NO. 823 OF 2022

DIRECTION

