

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

FRIDAY, THE SEVENTH DAY OF JUNE TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY

WRIT PETITION NO: 14249 OF 2024

Between:

Mohammed Shakil Aamir, S/o. Mohammed Azam, Represented by his G.P.A. Holder, Shahed Rahman Syed S/o. Syed Zakariya, Age- 33 Years, Occ-Business, R/o. H.No.18-2-45/3/1, Al Ameen Colony, Chadrayangutta, Hyderabad.

Petitioner

AND

1. The State of Telangana, represented by its Principal Secretary, Home Department, Secretariat Buildings, Hyderabad.
2. The Superintendent of Police, Nizamabad District, Nizamabad Proper and District.
3. The Station House Officer, Varni Police Station, Varni, Nizamabad District.
4. S. Jagadish Kumar, S/o. Sri Ramulu, Age- 43 Years, Occ- District Manager, TS Civil Supplies Corporation Limited, Nizamabad Proper and District

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ, declaring the action of the respondent authorities in not following the procedure contemplated under section 41-A of Cr.P.C. and the guidelines formulated the Hon'ble Apex court in Arnesh Kumar Vs. State of Bihar, as against the petitioner is concerned in F.I.R. No. 48 of 2024 of P.S. Varni of Nizamabad District, is nothing but arbitrary, illegal, null and void, and violative of Articles 14, 19 and 21 of the Constitution of India and also violative of principles of natural Justice. Consequently direct the respondent authorities to follow the procedure contemplated under section 41-A of Cr.P.C. and the guidelines formulated the Hon'ble Apex court in Arnesh Kumar Vs. State of Bihar, as against the petitioner is concerned in F.I.R. No. 48 of 2024 of P.S. Varni of Nizamabad District;

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent authorities to follow the procedure contemplated under section 41-A of

Cr.P.C. and the guidelines formulated the Hon'ble Apex court in Arnesh Kumar Vs. State of Bihar, as against the petitioner is concerned in F.I.R. No. 48 of 2024 of P.S. Varni of Nizamabad District, pending disposal of WP 14249 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri D PRAKASH REDDY, Sr. Counsel rep. for Sri K VENUMADHAV, Advocate for the Petitioner, GP FOR HOME, for the Respondent Nos.1 to 3, the Court made the following.

ORDER

Heard Mr. D. Prakash Reddy, learned Senior Counsel, appearing for Mr. K. Venu Madhav, learned counsel for the petitioner, and learned Assistant Government Pleader for Home.

It is submitted that the petitioner is Accused No.3 in Crime No.48 of 2024 registered with Varni Police Station, Nizamabad, on 10.02.2024 for the offences punishable under Sections 406, 409, 417 and 420 IPC and Section 7 of the Essential Commodities Act, 1955 (for short 'the EC Act').

Learned Senior Counsel referred to the contents of the remand case diary and submitted that the only allegation against the petitioner/Accused No.3 is that Accused Nos.1 and 2, with the support of Accused No.3, have indulged in the commission of the offences. Learned Senior Counsel submitted that assuming that there is a *prima facie* case against the petitioner/Accused No.3, he cannot be prosecuted for the offence under Section 409 IPC. The allegations, so far as, connected to the Section 409 IPC, are against Accused Nos.1 and 2 and not against petitioner/Accused No.3. Thus, it is contended that notice under Section 41A Cr.P.C. mandatorily has to be issued to the petitioner/ Accused No.3.

Learned Assistant Government Pleader for Home submitted that the F.I.R. and remand case diary cannot be treated as an encyclopedia. There is every possibility to alter the Section of law as against petitioner/Accused No.3. The case is at the preliminary stage of investigation. The Police have

information that Accused Nos.1 and 2 are the benamis of petitioner/Accused No.3 and he is also directly involved in the transaction relating to the supply of Custom Milled Rice (CMR) rice.

On reading the contents of the remand case diary, *prima facie* offence under Section 409 IPC is not attracted against the petitioner/Accused No.3. The other offences under Sections 406, 417 and 420 IPC and Section 7 of the EC Act are punishable with the term less than seven (7) years imprisonment and hence, respondent No.3 - the Station House Officer, Varni Police Station, Varni, Nizamabad District is directed to comply with the procedure contemplated under Section 41-A of Criminal Procedure Code (Cr.P.C.) and guidelines issued by the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar ((2014) 8 SCC 273) while conducting investigation in Crime No.48 of 2024.

Post on 21.06.2024.

SD/-K.SREERAMA MURTHY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat Buildings, Hyderabad.
2. The Superintendent of Police, Nizamabad District, Nizamabad Proper and District.
3. The Station House Officer, Varni Police Station, Varni, Nizamabad District.
4. S. Jagadish Kumar, S/o. Sri Ramulu, Age- 43 Years, Occ- District Manager, TS Civil Supplies Corporation Limited, Nizamabad Proper and District (for 1 to 4 by RPAD)
5. One CC to SRI. K VENUMADHAV, Advocate [OPUC]
6. Two CCs to GP FOR HOME, High Court at Hyderabad. [OUT]
7. One spare copy

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HIGH COURT

BVRJ

DATED:07/06/2024

POST ON 21.06.2024

ORDER

WP.No.14249 of 2024

DIRECTION

