

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

CRIMINAL PETITION NO: 6254 OF 2025

Between:

Syed Shamshuddin, S/o Late Syed Tajuddin Quadir, Aged about 62 Years, Occ.
Business, Residing at 2-4-6696, Amberpet Road, Kachiguda, Hyderabad.

...Petitioner/Alleged No.3

AND

1. The State of Telangana, Rep by Inspector of Police P.S, Kachiguda Police Station, Hyderabad., Rep by Public Prosecutor, High Court of Telangana, Hyderabad.

...Respondent/Complainant

2. Sri Abdul Sageer, S/o Late Abdul Nazeer, Aged about 41Years, Occ. Advocate, Residing at H. No. 2-4-520/18/0, Krishna Nagar, Kachiguda, Hyderabad.

...Respondent/De-facto Complainant

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 all the records pertaining to C. C. No. 2298 of 2024 on the file of Court of IV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad and to quash the same, in the interest of justice.

I.A. NO: 1 OF 2025

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 all further proceedings in C. C. No. 2298 of 2024 on the file of Court of IV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad including the appearance and arrest of the Petitioner, pending disposal of the above criminal petition.

I.A. NO: 2 OF 2025

BETWEEN:

Sri Abdul Sageer, S/o Late Abdul Nazeer, Aged about 41Years, Occ. Advocate,
Residing at H. No. 2-4-520/18/0, Krishna Nagar, Kachiguda, Hyderabad.

...Petitioners/Respondent No.2/De-facto Complainant

AND

1. The State of Telangana, Rep by Inspector of Police P.S, Kachiguda Police Station, Hyderabad., Rep by Public Prosecutor, High Court of Telangana, Hyderabad.
2. Syed Shamshuddin, S/o Late Syed Tajuddin Quadir, Aged about 62 Years, Occ. Business, Residing at 2-4-6696, Amberpet Road, Kachiguda, Hyderabad.

...Respondent/Petitioner/Accused No.3

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 Vacate the Stay order Passed in I.A.No.1.2025 in CRLP.No.6254 of 2025, dt.09.06.2025.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri K Devanath , Advocate for the Petitioner and Sri Dr. Surepalli Prashanth, Assistant Public Prosecutor on behalf of the Respondent No.1 and of Sri M Ram Singh, counsel representing Sri Mohd. Anwar Ali, Advocate 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 NAGESH BHEEMAPAKA

CRIMINAL PETITION No.6254 of 2025

30.03.2026

Between:

Syed Shamshuddin

...Petitioner/accused No.3

AND

The State of Telangan,
Represented by Inspector of Police,
Kachiguda Police Station, Hyderabad,
represented by Public Prosecutor,
High Court of Telangana, Hyderabad,
and another

...Respondents

ORDER:

This Criminal Petition is filed under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short, "BNSS") seeking to quash the
proceedings against the petitioner/A3 in C.C.No.2298 of 2024 on the file
of the Court of IV Additional Chief Metropolitan Magistrate, Nampally,
Hyderabad.

2. Heard Sri K.Devanath, learned counsel for the petitioner/accused No.3, Sri Dr. Surepalli Prashanth, learned Assistant Public Prosecutor appearing for respondent No.1–State and Sri M.Ram Singh, learned counsel representing Sri Mohd Anwar Ali, learned counsel appearing for respondent No.2.
3. Learned counsel for the petitioner submits that the petitioner is arrayed as Accused No.3 in the above calendar case registered for the offence punishable under Section 506 of IPC. It is contended that the said offence is non-cognizable in nature and the police, without obtaining prior permission from the jurisdictional Magistrate as mandated under Section 155(2) of the Code of Criminal Procedure, registered the case, conducted investigation and filed charge sheet.
4. It is further submitted that investigation conducted in a non-cognizable offence without permission of the Magistrate is illegal and without jurisdiction and therefore continuation of criminal proceedings amounts to abuse of process of law. Hence, the proceedings are liable to be quashed.
5. Learned counsel for respondent No.2/de-facto complainant submits that the complaint discloses prima facie allegations against the petitioner and the learned Magistrate, upon consideration of the material available

on record, has rightly taken cognizance of the offence. It is contended that disputed questions of fact cannot be examined in proceedings under Section 528 BNSS and the matter requires trial.

6. The point that arises for consideration is, whether the proceedings in C.C.No.2298 of 2024 are liable to be quashed for non-compliance of Section 155(2) Cr.P.C.?

7. Section 155(2) of the Code of Criminal Procedure reads as under:

“No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.”

8. A plain reading of the above provision makes it clear that prior permission of the Magistrate is mandatory before investigation into a non-cognizable offence.

9. In the present case, the offence alleged against the petitioner under Section 506 IPC is admittedly non-cognizable in nature. The material placed before this Court does not disclose that the police obtained permission from the competent Magistrate before undertaking investigation.

10. When a statute mandates a particular procedure, the same has to be strictly followed. Investigation conducted contrary to Section 155(2) Cr.P.C. is without authority of law and the charge sheet filed pursuant

thereto cannot be sustained. Continuation of proceedings based on such investigation would amount to abuse of process of Court and therefore warrants interference by this Court in exercise of its inherent jurisdiction.

11. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/accused No.3 in C.C.No.2298 of 2024 on the file of the Court of IV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, are hereby quashed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

//TRUE COPY//

SD/- M.OSMAN ALI BAIG
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The IV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad (with records if any)
2. The Station House Officer, Kachiguda Police Station, Hyderabad
3. One CC to Sri K Devanath, Advocate [OPUC]
4. One CC to SRI Mohd. Anwar Ali, Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR High Court for the State of Telangana, at Hyderabad [OUT]
6. Two CD Copies

ADK:psl

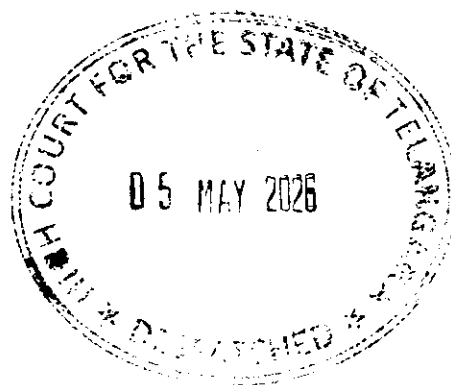


HIGH COURT

DATED: 30/03/2026

ORDER

CRLP.No.6254 of 2025



ALLOWING THE CRLP

9/11/26
20/4/26