

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

**TUESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 7193 OF 2026

Between:

Islavath Neela W/o. Dariya, Age. 61 years, Occ. Housewife, R/o. Islavath
Thanda village, Thirumalayapalem Mandal, Khammam District

...PETITIONER/ACCUSED No. 2

AND

1. The State of Telangana,, Rep. by its Public Prosecutor, High Court of
Judicature at Hyderabad Through Thirumalayapalem Police Station,
Khammam District

...RESPONDENT

2. Kosuri Ravi S/o.Venkanna, Age. 42 years, Occ. Business, R/o. Eluvarigudem
Village, Flat No.520, Pragathi Nagar, Thirumalayapalem Mandal, Khammam
District.

...RESPONDENT/DEFACTO 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 the records in connection with the Cognizance order dated 30.04.2025 including entire proceedings in CC.No.1794 of 2025 on the file of the Principal Judicial First Class Magistrate, AT Khammam, registered under section 196 of MV Act, by taking cognizance in mechanical manner to quash the same by allowing the above petition in respect.

I.A. NO: 1 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 all further proceedings in connection with CC.No.1794 of 2024 on the file of the Principal Judicial First Class Magistrate, AT Khammam, including personal appearance of the Petitioner/Accused, pending disposal of the above criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri D. Kishore Kumar, Advocate for the Petitioner and Sri Jithendar Rao Veeramalla, Additional Public Prosecutor on behalf of the Respondent No. 1 and None appeared for the Respondent No.2

The Court made the following: ORDER

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.7193 of 2026

Date: 05.05.2026

Between:

Islavath Neela

... Petitioner/Accused No.2

AND

The State of Telangana and another

... Respondents

: O R D E R :

This Criminal Petition has been filed by the petitioner/accused No.2 seeking to quash the proceedings in C.C.No.1794 of 2024 pending on the file of the Principal Judicial First Class Magistrate at Khammam, for the offences under Section 338 of the IPC and Sections 188 and 196 of the MV Act.

2. Heard Mr. D. Kishore Kumar, learned counsel for the petitioner, and Sri Jithendar Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1.

3. Learned counsel for the petitioner submitted that the learned Magistrate, without recording satisfaction and without assigning any reasons, took cognizance on 30.04.2024 and issued summons to the petitioner and accused No.1 and the

same is contrary to the principle laid down in **Sunil Bharati Mittal v. Central Bureau of Investigation**¹.

4. The above said submission has not been opposed by the learned Additional Public Prosecutor.

5. Having considered the submissions made by the respective parties and after perusal of the material available on record, it reveals that the learned Magistrate, without recording satisfaction and without assigning any reasons, took cognizance against the petitioner and not against the offences and also issued summons to him.

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**

¹ (2015) 4 SCC 609

² (2013) 4 SCC 505

Limited³, 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 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

³ (2008) 2 SCC 492

⁴ (2008) 17 SCC 157

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 for summoning an accused to face a criminal trial is a serious issue and such orders directing the issuance of summons to a person to face criminal trial cannot be passed on the basis of cryptic orders and it should be an order reflecting due application of mind by the Presiding Officer while taking cognizance and issuing process.

9. For the foregoing reasons as well as in view of the principles laid down by the Hon'ble Apex Court in the judgments cited *supra*, and without going into the other grounds, this Court is of the considered view that the cognizance order passed in C.C.No.1794 of 2024 pending on the file of the Principal Judicial First Class Magistrate at Khammam, is liable to be quashed and is 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/-P C SULEKHA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Judicial First Class Magistrate (PDM) at Khammam
2. The Station House Officer, Thirumalayapalem Police Station, Khammam District
3. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Sri Dharavath Kishore Kumar, Advocate [OPUC]
5. Two CD Copies

VH/GNK

[Signature]

HIGH COURT

DATED: 05/05/2026

ORDER

CRLP.No.7193 of 2026



**DISPOSING OF THE
CRIMINAL PETITION**

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