

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

**FRIDAY, THE TENTH DAY OF JULY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 10595 OF 2026

Between:

1. Zubair Hussain, S/o. Anwar Hussain, Aged about. 40 years, Occ. Business, R/o. H. No. 9-3-58/A/60/A/5, Langer House, Outside Moti Darwaza, Golconda, Hyderabad.
2. Mohsin Khan, S/o. M.A. Habeeb Khan, Aged about. 23 years, Occ. Business, R/o. H. No. 9-3-58/A/114 to 116, Afsar Khan Colony, Golconda, Hyderabad.

...Petitioners/A-1 & A-2

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad.
2. Sri Maqsood Ali, S/o. Istekhar Ahmed, Aged about. 30 years, Occ. Carpenter, R/o. H. No. 11-3-579, Asif Nagar, Mallepally Badi Masjid, Hyderabad.

...Respondents/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 quash the proceedings against the Petitioners / A-1 and A-2 in Crime No. 238 of 2026 dated.03/07/2026 for the offences Under Sections 118(1), 352, 351(2) R/w. 3(5) BNS of Gadimalkapur Police Station, Hyderabad, in the interest of justice.

I.A. NO: 2 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 including the arrest of the Petitioners / A-1 & A-2 in Crime No. 238 of 2026 dated.03.07.2026 for the offences Under Sections 118(1), 352, 351(2) R/w. 3(5) BNS of Gadimalkapur Police Station, Hyderabad, pending disposal of the main Criminal Petition in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Noumad, learned counsel representing Sri M.A. Mujeeb, Advocate for the Petitioners 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

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No. 10595 of 2026

DATE: 10.07.2026

Between :

Zubair Hussain and another.

....Petitioners/Accused Nos.1 and 2

AND

The State of Telangana and another

....Respondents

: O R D E R :

This Criminal Petition has been filed by the petitioners/accused Nos.1 and 2 seeking to quash the proceedings in Crime No.238 of 2026 of Gudimalkapur Police Station, Hyderabad, registered for the offences punishable under Sections 118(1), 352 and 351(2) R/w 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'the BNS').

2. Heard Mr.Noumad, learned counsel, representing Mr. M.A.Muzeeb, learned counsel for the petitioners, and Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1-State. With their consent, the present criminal petition is disposed at the stage of admission.

3. Learned counsel for the petitioners submitted that the petitioners have not committed any offences and they have been falsely implicated in the present crime. He further submitted that due to rivalry between petitioner No.1 and respondent No.2, he lodged the present complaint by making omnibus allegations, though the petitioners have not assaulted respondent No.2 nor used any filthy language against him. Hence, the ingredients of the offences under Sections 118(1), 352 and 351(2) R/w 3(5) of the BNS are not attracted. He further submitted that the offences levelled against the petitioners are punishable with imprisonment of less than seven years. The Investigating Officer, without following the mandatory procedure prescribed under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') and without following the guidelines formulated by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar**¹, is proceeding further in the matter and the same is contrary to law.

4. *Per contra*, learned Additional Public Prosecutor submitted that there are specific allegations levelled in the complaint that the petitioners abused respondent No.2 in filthy language and physically assaulted with hands and rods, due to which he sustained injuries and the investigation is under progress. Further the offences levelled against the petitioners are punishable with imprisonment below

¹ (2014) 8 SCC 273

seven years and when the Investigating Officer is trying to serve the notice under Section 35(3) of the BNSS, the petitioners are avoiding to receive the same and they are not cooperating with the investigation from the date of registration of the crime. Hence, the petitioners are not entitled to seek for quashing of the proceedings.

5. Learned counsel for the petitioners by way of reply submitted that the petitioners will cooperate with the investigation.

6. Having considered the submissions made by the respective parties and after perusal of the material available on record, it reveals that the offences levelled against the petitioners are punishable with imprisonment of less than seven years. Even according to the learned Additional Public Prosecutor, the Investigating Officer wants to follow the due procedure as contemplated under Section 35(3) BNSS to the petitioners.

7. In view of the same, the petitioners are directed to appear before the Investigating Officer on or before 21.07.2026 and on such appearance, the Investigating Officer is directed to follow the due procedure as contemplated under the provisions of the BNSS, and also the guidelines formulated by the Hon'ble Apex Court in **Arnesh Kumar** (*supra*) and the petitioners shall cooperate with the investigation. It is needless to mention that the petitioners are entitled to submit reply to the notice under Section 35(3) of the BNSS

by raising all the pleas which are available to them and they are also entitled to submit the documents, if any, which are in their custody, to the Investigating Officer.

8. Accordingly, the Criminal Petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

SD/- A.H.S.GOWRI SHANKAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XVIth Additional Chief Judicial Magistrate, Nampally, Hyderabad.
2. The Station House Officer, Gudimalkapur Police Station, Hyderabad.
3. Two CCs to the Public Prosecutor, High Court of Telangana at Hyderabad [OUT]
4. One CC to Sri. M.A. Mujeeb, Advocate [OPUC]
5. Two CD Copies

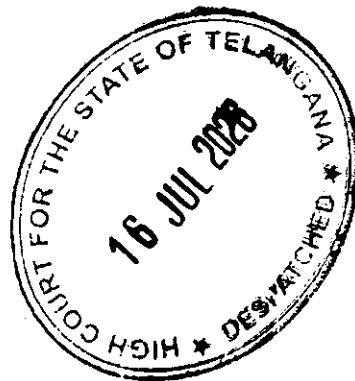
GNK/KA

HIGH COURT

DATED: 10/07/2026

ORDER

CRLP.No.10595 of 2026



DISPOSING THE CRIMINAL PETITION

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16/07/28
K.B