



2026:TSHC:5425

[3385]

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

**MONDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL REVISION CASE NO: 1003 OF 2025

Criminal Revision filed under Section 438 and 442 of B.N.S.S., against the order dated: 13.10.2025 passed in CrI.M.P.No. 376 of 2025 in C.C.No. 1500 of 2024 on the file of the Principal Junior Civil Judge -cum- XI Additional Judicial Magistrate of First Class, Ranga Reddy District at Rajendranagar.

Between:

1. Saeed Khan Pathan, S/o. Mir Khan Pathan, Aged about 37 years, Occ: Footwear Business, R/o. H.No.22-2-246, Purani Haveli, Charminar, Hyderabad. (A-3)
2. Mohammed Nayeem Khan, S/ o. Mohammed Arif Khan, Aged about 45 years, Occ: Business, R/o. H.No.22-2-246, Purani Haveli, Charminar, Hyderabad. (A-4)

...PETITIONERS/ACCUSED

AND

1. The State of Telangana, rep., by its Public Prosecutor, High Court for the State of Telangana at Hyderabad.
2. Kommireddy Bhaskara Rama Murthy, S/o. Late K. Sree Rama Narsinga Rao, Aged about 84 years, Occ: Retired Employee, R/o. Flat No.102, Block-B, Hi-Line Apartments, Barkathpura, Hyderabad.

...RESPONDENT/DEFACTO COMPLAINANT

I.A. NO: 1 OF 2026

1. Saeed Khan Pathan, S/o. Mir Khan Pathan, Aged about 37 years, Occ: Footwear Business, R/o. H.No.22-2-246, Purani Haveli, Charminar, Hyderabad. (A-3)
2. Mohammed Nayeem Khan, S/ o. Mohammed Arif Khan, Aged about 45 years, Occ: Business, R/o. H.No.22-2-246, Purani Haveli, Charminar, Hyderabad. (A-4)



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...RESPONDENTS/...RESPONDENTS

Petition under Section 528 of BNSS, praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to:

- a. Vacate the interim suspension order dated 30.12.2025 passed in I.A.No.1 of 2025 in CrI.R.C.No.1003 of 2025, as the mandatory condition for its continuance has failed and it was granted on a legally untenable premise;
- b. Hold and declare that in terms of the express condition stipulated in the order dated 30.12.2025, the interim suspension stands automatically cancelled and ipso facto vacated due to the petitioners' failure to validly serve notice upon the 2nd Respondent at his correct and current address;
- c. Dismiss CrI.R.C. No. 1003 of 2025 at the threshold on the grounds of:
 - (i) Non-maintainability, being barred under Section 397(2) Cr.P.C./Section 438 BNSS as it assails an interlocutory order;
 - (ii) Forum circumvention, for directly approaching this Hon'ble Court without first Invoking the revisional jurisdiction of the Sessions Court as Mandated by judicial discipline under Section 397(1) Cr.P.C.;
 - (iii) Suppression of material facts and abuse of process, for withholding information regarding pending connected proceedings (CrI.M.P. No.27/2024) and initiating multiple proceedings on the Same FIR;
- d. Direct the Registry to correct the cause title and all records in CrI.R.C.No.1003 of 2025 and connected applications to reflect the 2nd Respondent's correct and current address, being:
 - Villa No. 40, Guru Raghavendra Royal Palms, Sri Balaji Layout, Gajularamaram, Hyderabad-500055 and his permanent address;
 - H.No. 42-1-21/A, Vallabhai Street, Cinema Road, Kakinada, East Godavari District, Andhra Pradesh-533001;
- e. Pass an order directing the Investigating Agency to forthwith proceed with the further investigation as lawfully directed by the Learned Magistrate vide order dated 13.10.2025 in CrI.M.P.No.376 of 2025;
- f. Award costs of these proceedings to the 2nd Respondent, quantifying the litigation expenses incurred due to the petitioners' mala fide conduct and abuse of process;

I.A. NO: 1 OF 2025

Petition under Section 528 of BNSS, praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to



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suspend the operation of the order passed in CrI.M.P.No. 376 of 2025 in C.C.No. 1500 of 2024 on the file of the Principal Junior Civil Judge -cum- XI Additional Judicial Magistrate of First Class, Ranga Reddy District at Rajendranagar pending disposal of the above Criminal Revision Case.

Counsel for the Petitioner: Sri. C Sharan Reddy

Counsel for the Respondent No.1: Sri. M. Ramachander Reddy
Additional Public Prosecutor

Counsel for the Respondent No.2: Sri K. Rama Chandran

The Court made the following: ORDER



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IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL REVISION CASE No.1003 of 2025

DATE: 02.03.2026

BETWEEN:

Saeed Khan Pathan and another

.....petitioners/accused Nos.3 and 4

And

The State of Telangana,

Rep. by Public Prosecutor,

High Court for the State of Telangana,

at Hyderabad and another

.....Respondent/complainant

ORDER

This Criminal Revision Case is filed seeking to set aside the order dated 13.10.2025 passed in CrI.M.P.No.376 of 2025 in C.C.No.1500 of 2024 by the learned Principal



Junior Civil Judge-cum-XI Additional Judicial Magistrate of First Class, Ranga Reddy District at Rajendranagar.

2. The brief facts of the case are that the *de facto* Complainant filed a protest petition contending that the investigation conducted by the police in Crime No.270 of 2020 was perfunctory and incomplete, as the Investigating Officer had failed to examine the Sub-Registrar and relevant officials, did not obtain and send the disputed signatures and thumb impressions for expert opinion, and did not verify the passport and travel records though it was alleged that the forged Special Power of Attorney was created on the false pretext that he was residing in the USA. Despite notice, the Assistant Public Prosecutor before the trial Court did not file any counter. Upon hearing the Petitioner and perusing the material on record, the trial Court held that the investigation lacked scientific verification and proper enquiry on crucial aspects, and relying on the judgment of the Hon'ble Supreme Court in **Vinubhai Haribhai Malaviya v. State of Gujarat**, concluded that it had power to order further investigation; accordingly, the protest petition was allowed and the matter was referred to the Investigating



Officer for further investigation under Section 173(8) Cr.P.C. Aggrieved thereby, the petitioners/accused filed the present Criminal Revision Case.

3. Heard Sri C. Sharan Reddy, learned counsel appearing on behalf of the petitioner as well as Sri M. Ramachander Reddy, learned Additional Public Prosecutor appearing on behalf of respondent No.1 – State and Sri K. Rama Chandran, learned counsel appearing on behalf of respondent No.2.

4. Learned counsel for the petitioners submitted that the impugned order directing further investigation under Section 173(8) Cr.P.C. was illegal, improper and passed without affording an opportunity of hearing to the petitioners, who were the accused and aggrieved parties in the case. He further submitted that after filing of the charge sheet on 26.06.2024 and taking cognizance, the protest petition filed by the 2nd respondent on 12.03.2025 was not maintainable, and the trial Court erred in entertaining the same. He contended that the police had already conducted investigation in accordance with law and that the Court



could not direct the Investigating Officer to conduct investigation in a particular manner, as the discretion in investigation lay exclusively with the police. He further contended that the protest petition could not be treated as an application under Section 173(8) Cr.P.C., especially when multiple reliefs such as taking cognizance, addition of sections of law and ordering further investigation were sought in a single petition, which was not legally permissible. Therefore, he prayed the Court to set aside the order of the trial Court by allowing this Criminal Revision Case.

5. On the other hand, learned counsel for respondent No.2 submitted that the Criminal Revision Case was a clear abuse of process, filed only to stall a lawful and necessary further investigation ordered to cure glaring defects in a perfunctory chargesheet relating to serious offences of forgery and fraudulent transfer of property. He contended that the trial Court had rightly exercised plenary powers under Section 173(8) Cr.P.C., as affirmed in **Vinubhai Haribhai Malaviya v. State of Gujarat**, and that the order directing limited further investigation was legal, reasoned



and did not warrant interference. He contended that the investigation was demonstrably incomplete, as no forensic examination of disputed signatures and thumb impressions was conducted, no Sub-Registrar officials were examined, and no verification of the complainant's passport and travel records was undertaken despite the forged GPA being based on a false claim of U.S. residence. He further contended that the petitioners had no vested right to be heard at the stage of directing further investigation, that a protest petition was a recognized procedural mechanism and could validly form the basis for invoking Section 173(8) Cr.P.C., and that the revision itself was not maintainable as it challenged an interlocutory order barred under Section 397(2) Cr.P.C. Therefore, he prayed the Court to dismiss the Criminal Revision Case.

6. In the light of the submissions made by both the learned counsel and upon perusal of the material available on record, it appears that the trial Court had allowed the protest petition and directed further investigation under Section 173(8) Cr.P.C. after cognizance was already taken in the case. It was the specific contention of the learned



counsel for the petitioners that such an order was passed without issuing notice to them and without affording an opportunity of hearing, though they were already arrayed as accused and cognizance had been taken. On the other hand, the learned counsel for respondent No.2 submitted that the Magistrate possessed ample power to order further investigation even post-cognizance and that the accused had no vested right to be heard at that stage, placing reliance on the settled legal principles governing protest petitions and further investigation.

7. Going through the said submissions, it is evident that the distinction between the pre-cognizance stage and post-cognizance stage assumed significance. At this stage, it is pertinent to note the judgment of the Hon'ble Supreme Court in **Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel**¹, wherein paragraph Nos.45 to 48, 51 and 53 are extracted hereunder:

"45. It may not be out of place to refer to an earlier decision of the Delhi High Court in A.S. Puri v. K.L. Ahuja [AIR 1970 Del 214] . In that case, inter alia, the question before the

¹ (2012) 10 SCC 517



High Court was whether the Additional Sessions Judge had committed an error in hearing the arguments of the accused's counsel to whom he had not ordered notice of the revision petition filed before him by the complainant. The Single Judge of that Court dealt with the question as under: (AIR p. 217, para 25)

"25. ... This question need not detain us because the learned Additional Sessions Judge had invited the counsel for Mr Puri to address arguments, when he was present in Court at the time of the hearing of the revision petition. It appears that notice of the revision petition did go to Mr Puri but as it appears from the docket the learned Additional Sessions Judge had only ordered notice to the respondent, which was the State. If, even by any error committed by the Office of the learned Magistrate, notice had also gone to Mr Puri nothing prevented the learned Additional Sessions Judge from hearing Mr Puri for it was his discretion to hear him. A Full Bench of the Calcutta High Court, consisting of eight Judges, pointed out in *Hari Dass Sanyal v. Saritulla* [ILR (1888) 15 Cal 608], that while no notice to an accused person was necessary in point of law before disposing of a revision petition directed against the order of dismissal under Section 203 of the Criminal Procedure Code and ordering a further enquiry as a matter of discretion it was proper that such a notice was given. In spite of that the learned Additional Sessions Judge had set aside the order of dismissal. In this situation the complainant cannot make any further grievance of this."

46. The legal position is fairly well-settled that in the proceedings under Section 202 of the Code the accused/suspect is not entitled to be heard on the question whether the process should be issued against him or not. As



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a matter of law, up to the stage of issuance of process, the accused cannot claim any right of hearing. Section 202 contemplates postponement of issue of process where the Magistrate is of an opinion that further inquiry into the complaint either by himself is required and he proceeds with the further inquiry or directs an investigation to be made by a police officer or by such other person as he thinks fit for the purpose of deciding whether or not there is sufficient ground for proceeding. If the Magistrate finds that there is no sufficient ground for proceeding with the complaint and dismisses the complaint under Section 203 of the Code, the question is whether a person accused of crime in the complaint can claim right of hearing in a revision application preferred by the complainant against the order of the dismissal of the complaint. Parliament being alive to the legal position that the accused/suspects are not entitled to be heard at any stage of the proceedings until issuance of process under Section 204, yet in Section 401(2) of the Code provided that no order in exercise of the power of the revision shall be made by the Sessions Judge or the High Court, as the case may be, to the prejudice of the accused or the other person unless he had an opportunity of being heard either personally or by pleader in his own defence.

47. Three expressions: "prejudice", "other person" and "in his own defence" in Section 401(2) are significant for understanding their true scope, ambit and width:

47.1. Black's Law Dictionary (8th Edn.) explains "prejudice" to mean damage or detriment to one's legal rights or claims. Concise Oxford English Dictionary [10th Edn., Revised] defines "prejudice" as under:



"Prejudice.— n. (1) preconceived opinion that is not based on reason or actual experience. >> unjust behaviour formed on such a basis. (2) chiefly Law harm or injury that results or may result from some action or judgment. >> v. (1) give rise to prejudice in (someone); make biased. (2) cause harm to (a state of affairs)."

47.2. Webster Comprehensive Dictionary (International Edn.) explains "prejudice" to mean (i) a judgment or opinion, favourable or unfavourable, formed beforehand or without due examination ... detriment arising from a hasty and unfair judgment; injury; harm.

47.3.P. Ramanatha Aiyar; the Law Lexicon (The Encyclopaedic Law Dictionary) explains "prejudice" to mean injurious effect, injury to or impairment of a right, claim, statement, etc.

47.4. "Prejudice" is generally defined as meaning "to the harm, to the injury, to the disadvantage of someone". It also means injury or loss.

47.5. The expression "other person" in the context of Section 401(2) means a person other than the accused. It includes suspects or the persons alleged in the complaint to have been involved in an offence although they may not be termed as accused at a stage before issuance of process.

47.6. The expression "in his own defence" comprehends, inter alia, for the purposes of Section 401(2), in defence of the order which is under challenge in revision before the Sessions Judge or the High Court.



48. In a case where the complaint has been dismissed by the Magistrate under Section 203 of the Code either at the stage of Section 200 itself or on completion of inquiry by the Magistrate under Section 202 or on receipt of the report from the police or from any person to whom the direction was issued by the Magistrate to investigate into the allegations in the complaint, the effect of such dismissal is termination of complaint proceedings. On a plain reading of sub-section (2) of Section 401, it cannot be said that the person against whom the allegations of having committed the offence have been made in the complaint and the complaint has been dismissed by the Magistrate under Section 203, has no right to be heard because no process has been issued. The dismissal of complaint by the Magistrate under Section 203—although it is at preliminary stage—nevertheless results in termination of proceedings in a complaint against the persons who are alleged to have committed the crime. Once a challenge is laid to such order at the instance of the complainant in a revision petition before the High Court or the Sessions Judge, by virtue of Section 401(2) of the Code, the suspects get the right of hearing before the Revisional Court although such order was passed without their participation. The right given to “accused” or “the other person” under Section 401(2) of being heard before the Revisional Court to defend an order which operates in his favour should not be confused with the proceedings before a Magistrate under Sections 200, 202, 203 and 204. In the revision petition before the High Court or the Sessions Judge at the instance of the complainant challenging the order of dismissal of complaint, one of the things that could happen is reversal of the order of the Magistrate and revival of the complaint. It is in this view of the matter that the accused or other person cannot be deprived of hearing on the face of the express provision contained in Section 401(2) of the Code.



The stage is not important whether it is pre-process stage or post process stage.

51. Sections 397, 399 and 401 were noticed by this Court and so also few earlier decisions including Chandra Deo Singh [AIR 1963 SC 1430 : (1964) 1 SCR 639 : (1963) 2 Cri LJ 397] , Vadilal Panchal [AIR 1960 SC 1113 : (1961) 1 SCR 1 : 1960 Cri LJ 1499] , P. Sundarrajan [(2004) 13 SCC 472 : (2006) 1 SCC (Cri) 345] and then in paras 22 and 23 of the Report, the Court held as under: (Raghu Raj Singh Rousha case [(2009) 2 SCC 363 : (2009) 1 SCC (Cri) 801] , SCC p. 369)

“22. Here, however, the learned Magistrate had taken cognizance. He had applied his mind. He refused to exercise his jurisdiction under Section 156(3) of the Code. He arrived at a conclusion that the dispute is a private dispute in relation to an immovable property and, thus, police investigation is not necessary. It was only with that intent in view, he directed examination of the complainant and his witnesses so as to initiate and complete the procedure laid down under Chapter XV of the Code.

23. We, therefore, are of the opinion that the impugned judgment cannot be sustained and is set aside accordingly. The High Court shall implead the appellant as a party in the criminal revision application, hear the matter afresh and pass an appropriate order.”

53. We are in complete agreement with the view expressed by this Court in P. Sundarrajan [(2004) 13 SCC 472 : (2006) 1 SCC (Cri) 345] , Raghu Raj Singh Rousha [(2009) 2 SCC 363 : (2009) 1 SCC (Cri) 801] and A.N. Santhanam [(2012) 12 SCC 321 : (2011) 2 JCC 720] . We hold, as it must be, that in a



revision petition preferred by the complainant before the High Court or the Sessions Judge challenging an order of the Magistrate dismissing the complaint under Section 203 of the Code at the stage under Section 200 or after following the process contemplated under Section 202 of the Code, the accused or a person who is suspected to have committed the crime is entitled to hearing by the Revisional Court. In other words, where the complaint has been dismissed by the Magistrate under Section 203 of the Code, upon challenge to the legality of the said order being laid by the complainant in a revision petition before the High Court or the Sessions Judge, the persons who are arraigned as accused in the complaint have a right to be heard in such revision petition. This is a plain requirement of Section 401(2) of the Code. If the Revisional Court overturns the order of the Magistrate dismissing the complaint and the complaint is restored to the file of the Magistrate and it is sent back for fresh consideration, the persons who are alleged in the complaint to have committed the crime have, however, no right to participate in the proceedings nor are they entitled to any hearing of any sort whatsoever by the Magistrate until the consideration of the matter by the Magistrate for issuance of process. We answer the question accordingly. The judgments of the High Courts to the contrary are overruled."

8. A cursory reading of the above judgment, the Hon'ble Supreme Court clearly held that an accused has no right of hearing at the pre-cognizance stage; however, once the Magistrate takes cognizance and the accused enters the arena of proceedings, any order which has the effect of altering the course of the prosecution or reviving



investigation cannot be passed without affording an opportunity of hearing to the accused. The Apex Court emphasized that principles of natural justice become applicable once the proceedings reach a stage where the accused is before the Court.

9. In the present case, admittedly, the charge sheet was filed, cognizance was taken and the petitioners were arrayed as accused. Thereafter, the protest petition was entertained and an order for further investigation was passed. Though the Magistrate undoubtedly has power under Section 173(8) Cr.P.C. to direct further investigation even after taking cognizance, such power, when exercised at the post-cognizance stage, ought to be preceded by notice to the accused, as the order directly impacts the nature and scope of prosecution against them. The record did not disclose that such an opportunity was afforded to the petitioners.

10. Therefore, while this Court did not express any opinion on the merits of the allegations or on the necessity of further investigation, it was of the considered view that

the impugned order suffered from procedural infirmity on account of violation of principles of natural justice.

11. Accordingly, the Criminal Revision Case is allowed to the limited extent of setting aside the order passed by the learned Magistrate directing further investigation. The matter is remanded to the trial Court with a direction to rehear the protest petition afresh, after issuing notice to the accused/petitioners and affording them an opportunity of being heard, and thereafter pass appropriate orders in accordance with law. It is made clear that this Court had not expressed any opinion on merits of the case and all the contentions are left open.

Miscellaneous applications, if any pending, shall stand closed.

SD/- P.GOWRI SHANKAR
DEPUTY REGISTRAR

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SECTION OFFICER

To

1. The Principal Junior Civil Judge -cum- XI Additional Judicial Magistrate of First Class, Ranga Reddy District at Rajendranagar.
2. Two CCs to the Public Prosecutor, High court for the state of Telangana, at Hyderabad [OUT]
3. One CC to Sri. C Sharan Reddy, Advocate [OPUC]
4. One CC to Sri K. Rama Chandran, Advocate [OPUC]
5. Two CD Copies

PR/PSL

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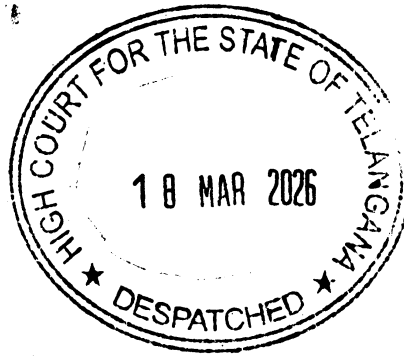
2026:TSHC:5425

HIGH COURT

DATED: 02/03/2026

ORDER

CRLRC.No.1003 of 2025



ALLOWING THE CRL.RC

(8) JKS
12/3/26