

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No. 7515 of 2026

DATE: 29.06.2026

Between :

Kistaiahgari Sandeep

....Petitioner/Accused

AND

The State of Telangana and another.

...Respondents

: O R D E R :

This criminal petition has been filed by the petitioner/accused seeking to quash the proceedings in C.C.No.178 of 2024 on the file of the Special Judicial Magistrate of First Class (Prohibition & Excise Offences) Court at Sangareddy, Medak District.

2. Heard Mr. S. Surya Teja, learned counsel for the petitioner, and Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for the respondents - State.

3. With the consent of both counsel, the criminal petition is disposed of at the admission stage.

4. A perusal of the docket order, dated 19.02.2024, it is revealed that the learned Magistrate took cognizance of the offences under Sections 188 and 336 of the IPC and Section 15 of the Environment (Protection) Act, 1986 against the petitioner and issued summons. Even according to the parties, the matter before the trial Court has not ripened for trial and is at the stage of appearance of the petitioners.

5. It is trite law that the learned Magistrate ought to have taken cognizance of the offences, not against the petitioner, and should have recorded his satisfaction and assigned reasons.

6. It is very much relevant to mention that in **Sunil Bharati Mittal v. Central Bureau of Investigation**¹, 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 Limited**³, 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:

¹ (2015) 4 SCC 609

² (2013) 4 SCC 505

³ (2008) 2 SCC 492

“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 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

⁴ (2008) 17 SCC 157

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 docket order dated 19.02.2024 passed by the learned Special Judicial Magistrate of First Class for trial of cases under Telangana Prohibition and Excise Act-cum-III Additional Junior Civil Judge, Sangareddy, in Crime No.15 of 2024 of R.C. Puram Police Station, 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.

J.SREENIVAS RAO, J

Date: 29.06.2026.

Note:

Issue C.C. in three (3) days.

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