HIGH COURT FOR THE STATE OF TELANGANA

CRIMINAL PETITION No.17909 of 2026

Between :

Sri Koduru Pitecheswara Rao S/o. Late Subba Rao
Age: 63 years, Occ: Business,
R/o.Flat No.104, 304 of Koduru Mansion,
Indra Nagar, Gachibowli,
Serilingampally Mandal, Ranga Reddy District
N/o.Vijayawada

....Petitioner/*De facto* complainant

VERSUS

The State of Telangana through
PS. Gachibowli, Hyderabad.
Rep by its Public Prosecutor and seven others.

... Respondents

DATE OF ORDER: 29.10.2026

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

1.	Whether Reporters of Local newspapers may be allowed to see the Judgments?	Yes/No
2.	Whether the copies of judgment may be marked to Law Reporters/Journals?	Yes/No
3.	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	Yes/No

J. SREENIVAS RAO, J

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

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% Dated 29.10.2026

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... Respondents

! Counsel for Petitioner : Mr. VSRMV Prasad

^ Counsel for Respondents : Mr. Jithendar Rao Veeramalla,
Additional Public Prosecutor
(for respondent No.1)

< GIST:

> HEAD NOTE:

? CITATIONS:

1. (2015)4 SCC 609
2. (2013) 4 SCC 505
3. (2008) 2 SCC 492
4. (2008) 17 SCC 157

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.17909 of 2026
(CNR No.HBHC010742362026)

Date: 29.10.2026

Between:

Sri Koduru Pitcheswara Rao

...Petitioner/*de facto* complainant

AND

The State of Telangana and seven others

...Respondents

:: O R D E R ::

This Criminal Petition has been filed aggrieved by the docket order passed by the learned II Additional Junior Civil Judge-cum-X Additional Judicial Magistrate of First Class, Ranga Reddy District at Kukatpally, (for short, 'the learned trial Court') in taking cognizance of the offence under Section 122(2) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'the BNS'), against respondent Nos.2 to 8/accused Nos.1 to 7.

2. Heard Mr. VSRMV Prasad Sanaka, learned counsel for the petitioner, and Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for respondent No.1-State.

3. Notice in respect of respondent Nos.2 to 8 is dispensed with on the ground that the petitioner is the *de facto* complainant filed the

present criminal petition, aggrieved by the cognizance order passed by the learned trial Court.

4. Learned counsel for the petitioner submitted that the learned X Additional Judicial Magistrate of First Class, R.R. District at Kukatpally, (for short, 'the learned Magistrate'), without recording satisfaction and without assigning any reasons, took cognizance against respondent Nos.2 to 8 and not against the offence, and issued summons and the same is contrary to law. The learned Magistrate ought to have taken cognizance of the offence and not against the respondent Nos.2 to 8, as held by the Hon'ble Supreme Court in **Sunil Bharati Mittal v. Central Bureau of Investigation**[1], **GHCL Employees Stock Option Trust v. India Infoline Limited**[2], **Chief Enforcemnet Officer v. Videocon International Limited**[3] and **Fakhruddin Ahmad v. State of Uttaranchal and another**[4]. Unless the cognizance order passed by the learned Magistrate is quashed and necessary directions are issued to take cognizance afresh in terms of the principles laid down by the Hon'ble Supreme Court in the judgments cited *supra*, the petitioner will be put to great hardship.

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[1] (2015) 4 SCC 609
[2] (2013) 4 SCC 505
[3] (2008) 2 SCC 492
[4] (2008) 17 SCC 157

5. Learned Additional Public Prosecutor fairly submits that the learned trial Court ought to have taken cognizance of the offence and not against the accused i.e., respondent Nos.2 to 8.

6. Having considered the submissions made by the respective parties and upon perusal of the material available on record, it reveals that based on the complaint lodged by the petitioner/*de facto* complainant, Crime No.1887 of 2025 was registered on 25.08.2025 at Gachibowli Police Station, Cyberabad Commissionerate, against respondent Nos.2 to 8/accused Nos.1 to 7 for the offence under Section 109 read with Section 3(5) of the BNS. Subsequently, the section of law was altered from 109 read with Section 3(5) of the BNS to 122(2) of the BNS. The Investigating Officer/LW.26, after recording the statements of the witnesses/LWs.1 to 25 and conducting the investigation, filed the final report before the learned trial Court on 31.07.2026. A perusal of the certified copy of the final report, which was enclosed along with this criminal petition, reveals that the learned Magistrate took cognizance of the offence under Section 122(2) of the BNS against accused Nos.1 to 7 and issued summons even without mentioning the date when he took cognizance.

7. It is relevant to mention that in **Sunil Bharti Mittal** (*supra*) the Hon'ble Supreme Court held that application of judicial mind by the Magistrate and his satisfaction that the allegations, if proved, would

constitute an offence are essential prerequisites for taking cognizance. The Magistrate is required to examine the complaint or police report and the material placed on record to determine whether a prima facie case is made out against the accused. Cognizance is taken when the Magistrate, upon such consideration, decides to initiate proceedings by issuing process. At this stage, the Court is required to judiciously assess whether the material placed before it discloses a prima facie case and not to determine the guilt of the accused.

8. In **Fakhruddin Ahmad** (*supra*) the Hon'ble Supreme Court held that before a Magistrate can be said to have taken cognizance of an offence, he must take notice of the accusations and apply his judicial mind to the allegations contained in the complaint, police report or information received from any other source, along with the material filed therewith. It is only when the Magistrate applies his mind, satisfies himself that the allegations, if proved, would constitute an offence, and decides to initiate proceedings against the alleged offender, that cognizance can be said to have been taken. Cognizance is taken of the offence and not of the offender.

9. In **M/s. GHCL Employees Stock Option Trust** (*supra*) the Hon'ble Supreme Court held that summoning an accused in a criminal case is a serious matter and criminal law cannot be set into

motion as a matter of course. The Magistrate is required to apply judicial mind to the facts of the case and the law applicable thereto and record satisfaction regarding the existence of a prima facie case on the basis of specific allegations supported by satisfactory evidence and other material on record. Mere general and vague allegations, without specifying the individual role played by each accused, are insufficient to initiate criminal proceedings, and issuance of summons without such judicial application of mind amounts to abuse of the process of law.

10. In **Chief Enforcement Officer** (*supra*) the Hon'ble Supreme Court held that taking cognizance of an offence and issuance of process against the accused are two distinct stages under the Code of Criminal Procedure. Cognizance is taken when the Magistrate applies his judicial mind to the suspected commission of an offence with a view to proceeding under the relevant provisions of the Code, and it does not require any formal action. Further, cognizance is taken of an offence and not of an offender. The initiation of proceedings under Chapter XIV and commencement of proceedings under Chapter XVI are different, and issuance of process under Section 204 Cr.P.C. is consequential to taking cognizance under Section 190 Cr.P.C. Therefore, the mere fact that process is issued subsequently cannot be treated as the date on which cognizance was taken.

11. The petitioner, being a *de facto* complainant, himself had approached this Court and filed the present criminal petition aggrieved by the cognizance order passed by the learned Magistrate. The record further reveals that the matter before the learned trial Court is at the stage of summons and posted to 04.03.2027.

12. The specific case of the learned counsel for the petitioner is that basing upon the impugned cognizance order, if the learned trial Court proceeds further and even if the accused are ultimately convicted of the offence alleged against them after a full-fledged trial, they may, at a subsequent stage, question the validity and legality of the impugned cognizance order and the same is contrary to the principles laid down by the Hon'ble Supreme Court *supra*. In such an event, it would cause serious prejudice and hardship and the petitioner would be compelled to face further rounds of litigation. In order to avoid such an eventuality and to ensure that the proceedings are conducted in accordance with law from the inception, the petitioner/*de facto* complainant has approached this Court seeking to set aside the impugned cognizance order and to direct the learned Magistrate to take cognizance afresh and proceed with the matter in accordance with law.

13. It is already stated *supra* that the learned Magistrate took cognizance of the offence against the accused and the same is

contrary to 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 summons.

14. For the foregoing reasons as well as the principles laid down by the Hon'ble Supreme Court as mentioned *supra,* the impugned cognizance order passed by the learned Magistrate is liable to be set aside and accordingly, set aside. The learned Magistrate is directed to take cognizance afresh in accordance with law, keeping in view the principles laid down by the Hon'ble Supreme Court as mentioned *supra* and proceed with the matter in accordance with law.

15. At this juncture, it is necessary to observe that this Court has been consistently coming across several matters wherein the learned Magistrates are taking cognizance of offences without recording the *prima facie* satisfaction against the accused for the offences by using rubber stamps. In several such matters, cognizance is being taken by passing routine and mechanical orders, without indicating due application of mind to the material placed before the Court. Consequently, this Court has, on several occasions, set aside such

orders and remitted the matters to the respective trial Courts with a direction to take cognizance afresh in accordance with law. Since January 2026, this Court has set aside more than 500 cognizance orders. In those matters, the accused approached this Court by filing criminal petitions, questioning the legality of the proceedings, *inter alia*, on the ground that the learned Magistrates had taken cognizance without following the procedure prescribed by law.

16. It is a matter of serious concern that, despite several orders passed by this Court pointing out such procedural irregularities, the same lapses continue to recur. The learned Magistrates are expected to independently examine the material placed before them and record their *prima facie* satisfaction with regard to the specific offences disclosed against the accused while taking cognizance. However, failure to adhere to this requirement is resulting in avoidable challenges before this Court. Whenever such cognizance orders are set aside and the matters are remitted to the trial Courts, the proceedings have to recommence from the threshold stage, including the issuance of fresh summons to the accused. Consequently, considerable judicial time is consumed in correcting procedural errors which could have been avoided at the initial stage itself.

17. Such repeated procedural lapses not only burden this Court with avoidable litigation but also consume the valuable time and

resources of the subordinate judiciary, the prosecution, the State machinery and the parties concerned. More importantly, they adversely affect the interests of both the accused and the victims, as the proceedings are unnecessarily delayed and the parties are compelled to undergo repeated rounds of litigation and also they have to incur expenditure. The time and resources spent in rectifying such defects could otherwise be utilised for the effective and expeditious disposal of pending criminal cases.

18. It is also relevant to point out that, in one of the matters previously dealt with by this Court, the proceedings were remitted to the learned Magistrate on account of an order taking cognizance contrary to law. However, even in the subsequent round of litigation, this Court noticed that the learned Magistrate, without application of mind, once again took cognizance of the offences against the accused and issued summons. Further, the learned Magistrate, even at the stage of taking cognizance, came to the conclusion that accused have committed the offence and liable for punishment, without duly adhering to the directions issued earlier. Such instances indicate that merely setting aside the cognizance orders and remitting the matters to the trial Courts may not, by itself, achieve the desired result unless the judicial officers concerned are properly sensitised to the legal requirements governing the exercise of such jurisdiction.

19. Hence, this Court is of the considered view that the recurring nature of such procedural irregularities calls for corrective measures at the institutional level. The judicial officers concerned must be adequately sensitised to the legal principles governing the taking of cognizance and the necessity of recording *prima facie* satisfaction with reference to the specific offences alleged against the accused. Such procedural deficiencies can be effectively addressed at the initial stage itself through appropriate training and guidance, thereby avoiding unnecessary challenges before this Court.

20. In the larger interests of justice and to prevent the recurrence of such procedural lapses, this Court considers it appropriate to issue necessary directions to the Registrar (Judicial-I) to communicate a copy of this order to all the Principal District and Sessions Judges, who shall, in turn, communicate the same to all the learned Magistrates within their respective jurisdictions.

21. A copy of this order shall also be forwarded to the Director of the Telangana State Judicial Academy, Secunderabad, with a direction to organize appropriate training programmes for concerned judicial officers, particularly on the legal requirements and principles governing the taking of cognizance and the necessity of recording independent *prima facie* satisfaction before proceeding further in a criminal case.

22. This Court hopes and trusts that, by imparting appropriate training and sensitization to the judicial officers concerned, such avoidable procedural irregularities can be eliminated at the threshold itself. The object of these directions is not merely to rectify the procedural defects arising in individual cases but also to ensure that such errors do not recur, thereby preventing unnecessary litigation, reducing the burden on the High Court, safeguarding the interests of the accused and victims, and ensuring the effective utilization of valuable judicial time and public resources. Ultimately, strict adherence to the procedure prescribed by law at the stage of taking cognizance would substantially contribute to the efficient and expeditious administration of criminal justice.

23. Accordingly, the criminal petition is disposed of.

Miscellaneous applications, pending if any, shall stand closed.

J. SREENIVAS RAO, J

Date: 29.10.2026
L.R. Copy to be marked.
mar/lk