

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

THURSDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION NO: 3503 OF 2026

Between:

1. **Arif Ali Baig**, S/o Khader Ali, Aged about 45 years, Occ: Private Employee, R/o H.No.19-3-262/50/44/2/A, Vattepally, Hyderabad.(A1)
 2. **Kum. Atiya Jabeen**, D/o Khader Ali, Aged about 40 years, Occ: Housewife, R/o H.No.19-3-262/50/44/2/A, Vattepally, Hyderabad.(A4)
 3. **Abed Ali**, S/o Khader Ali, Aged about 42 years, Occ: Employed in Dubai, R/o H.No.19-3-262/50/44/2/A, Vattepally, Hyderabad.(A5)
- ...Petitioners/Accused Nos.1,4 & 5**

AND

1. **The State of Telangana**, Rep. by its Public Prosecutor, High Court for the State of Telangana at Hyderabad.
 2. **Smt. Syeda Rabia Qamer**, W/o Arif Ali Baig, Age:39 years, R/o H.No.2-2-91/7,Turabnagar, Amberpet, Hyderabad - 500013.
- ...Respondents/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 quash the proceedings in C.C.No.675 of 2016 on the file of the Hon'ble XIII Additional Chief Judicial Magistrate (Mahila Court) at Hyderabad, against the petitioners (Accused Nos.1, 4 and 5), for the offences under Sections 498-A, 506 r/w 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, 1973, in view of the invalid cognizance order dated 30-01-2008 lacking recorded satisfaction and reasons, the non-maintainability of the sections due to vague allegations, and as per the principles in the attached judgment in Criminal Petition No.2587 of 2026 dated 25.02.2026, as continuation of the proceedings would amount to abuse of process of law.

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 in C.C.No.675 of 2016, Under Section 498(A), 506, r/w 34 IPC and 3 and 4 D.P.Act. pending before the XIII Additional Chief Judicial Magistrate (Mahila Court) at Hyderabad, including execution of any warrants, 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 Mr. Mohd Fasiuddin, Advocate for the Petitioners and Sri Jithendar Rao V. Ramamalla, Additional Public Prosecutor on behalf of the Respondent No.1 and None Appeared for the Respondent No.2.

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.3503 of 2026

Date: 12.03.2026

Between:

Arif Ali Baig and two others.

...petitioners

AND

The State of Telangana,
Rep by its Public Prosecutor,
High Court for the State of Telangana at Hyderabad and
another

...respondents

ORDER

This Criminal Petition is filed by the petitioner/accused, seeking to quash the proceedings in C.C.No.675 of 2016 (old C.C.No.48 of 2008) arising out of F.I.R.No.167 of 2007 pending on the file of the XIII Additional Chief Judicial Magistrate (Mahila Court) at Hyderabad, wherein the petitioners were arrayed as accused Nos.1, 4 and 5 for the offences punishable under Sections 498A, 506 read with 34 of the Indian Penal Code,

1860 (for short 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. With the consent of the learned counsel for the petitioners and the learned Additional Public Prosecutor, the criminal petition is disposed of at the stage of admission on the ground that the learned Magistrate has taken cognizance on 30.01.2008 by using rubber stamp without recording satisfaction and without assigning any reasons. In view of the same, notice in respect of respondent No.2/*defacto* complainant is dispensed with.

3. Heard Mr. Mohd. Fasiuddin, learned counsel for the petitioners and Sri Jithendar Rao Veeramulla, learned Additional Public Prosecutor for respondent No.1.

4. Learned counsel for the petitioners submitted that the learned Magistrate has taken cognizance on 30.01.2008 by using rubber stamp without recording satisfaction and without assigning any reasons and issued summons to the petitioners and the same is contrary to the principle laid

down in ***Sunil Bharati Mittal v. Central Bureau of Investigation***¹.

5. The above said submissions are not opposed by the learned Additional Public Prosecutor.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record it reveals that the learned Magistrate has taken cognizance, without applying his mind and without assigning any reasons, especially taken cognizance against the accused and not against the offences through cognizance order, passed in C.C.No.675 of 2016.

7. 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

¹ (2015) 4 SCC 609

² (2013) 4 SCC 505

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:

"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

³ (2008) 2 SCC 492

proposes to prosecute the accused brings out a prima facie case or not."

8. 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."

9. In view of the observations and directions of the Hon'ble Supreme Court in the judgments referred to supra, the act of issuing process of summoning the accused to face criminal trial is a serious issue and such orders directing summons to a person to face criminal trial cannot be on the basis of cryptic orders and it should be an order reflecting application of mind by the Presiding Officer while taking cognizance and issuing process.

⁴ (2008) 17 SCC 157

10. For the foregoing reasons as well as 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 cognizance order, passed in C.C.No.675 of 2016 (old C.C.No 48 of 2008) arising out of F.I.R.No.167 of 2007 pending on the file of the XII Additional Chief Judicial Magistrate (Mahila Court) at Hyderabad, is liable to be quashed and 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.

11. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

SD/- A.V.S.PRASAD
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XIII Additional Chief Judicial Magistrate (Mahila Court) at Hyderabad
2. The XIII Additional Chief Metropolitan Magistrate at Hyderabad.
3. The Station House Officer, Falaknuma Police Station, Hyderabad District.
4. One CC to Mr. Mohd Fasiuddin, Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR High Court for the State of Telangana, at Hyderabad [OUT]
6. Two CD Copies

Kam/PSL

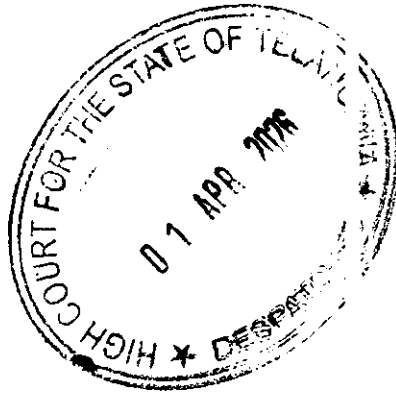


HIGH COURT

DATED: 12/03/2026

ORDER

CRLP.No.3503 of 2026



DISPOSING OF THE CRIMINAL PETITION

(9) NIT

11/4/26