VERDICTUM.IN

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.12811 of 2026

CNR.No. HBHC010757522026

Date: 05.11.2026

Between:

J.Raghu Ram and another

...Petitioners

AND

The State of Telangana and another

...Respondents

ORDER

This Criminal Petition has been filed by the petitioner, seeking to quash the proceedings in C.C.No.328 of 2024 on the file of the learned Judicial First Class Magistrate at Thungathurthy, Suryapet District, TG, registered for the offences punishable under Sections 353 r/w 34 of Indian Penal Code, 1860

2. Learned counsel for the petitioners submits that, pursuant to the order dated 07.08.2026, he had sent personal notice to respondent Nos.1 and 2 through Speed

VERDICTUM.IN

Post and filed proof of service *vide* USR No.136919 of 2026. According to the learned counsel for the petitioner, the notice sent to respondent No.2 was delivered on 29.10.2026. Despite service of notice, respondent No.2 has not chosen to enter appearance. Hence, this Court has no option except to proceed with the matter on merits.

3. Heard Mr.K.Ramesh, learned counsel for the petitioners and Mr.Jithendar Rao Veeramalla, learned Additional Public Prosecutor for respondent Nos.1 and 2, as respondent No. 2 had lodged the complaint in his official capacity as Tahsildar.

4. Upon perusal of the record, it reveals that the learned Magistrate, without recording satisfaction and without assigning any reasons, has taken cognizance against the petitioner on 05.05.2024 and issued summons mechanically and passed cryptic docket order by using rubber stamp. Therefore, cognizance order passed by the learned Magistrate is liable to be quashed.

VERDICTUM.IN

5. Learned Additional Public Prosecutor has not opposed the submissions made by the learned counsel for the petitioner.

6. Having considered the 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 recording satisfaction and without assigning any reasons against the accused and not against the offences, through the cognizance order.

7. 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

[1] (2015) 4 SCC 609
[2] (2013) 4 SCC 505

VERDICTUM.IN

when the Magistrate has not recorded his satisfaction about the prima facie case against the accused. In ***Chief Enforcemnet 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 proposes to prosecute the accused brings out a prima facie case or not."*

[3] (2008) 2 SCC 492

VERDICTUM.IN

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.

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[4] (2008) 17 SCC 157

VERDICTUM.IN

10. For the foregoing reasons and 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 cognizance order is liable to be quashed and accordingly quashed. The learned Magistrate is directed to take cognizance afresh and to proceed with the matter, in accordance with law.

11. Accordingly, the criminal petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE J. SREENIVAS RAO

05.11.2026
NIT