

IN THE HIGH COURT FOR THE STATE OF TELANGANA,
HYDERABAD

* * *

CRIMINAL PETITION Nos. 4905, 4903 & 8416 OF 2025

CRIMINAL PETITION No. 4905 OF 2025

Between:

Nalla Balu @ Durgam Shashidhar Goud

Petitioner/Accused

VERSUS

1. The State of Telangana, represented by its Public
Prosecutor, High Court for the State of Telangana.
2. G.Satish

Respondents

CRIMINAL PETITION No. 4903 OF 2025

Between:

Nalla Balu @ Durgam Shashidhar Goud

Petitioner/Accused

VERSUS

1. The State of Telangana, represented by its Public
Prosecutor, High Court for the State of Telangana.
2. MA Wasim Akram

Respondents

CRIMINAL PETITION No. 8416 OF 2025

Between:

Nalla Balu @ Durgam Shashidhar Goud

Petitioner/Accused

VERSUS

1. The State of Telangana, represented by its Public Prosecutor, High Court for the State of Telangana.
2. Koutam Sathish

Respondents

JUDGMENT PRONOUNCED ON: 10.09.2025

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to see the fair copy of the Judgment? : Yes

N. TUKARAMJI, J

*** THE HON'BLE SRI JUSTICE N. TUKARAMJI**

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1. The State of Telangana, represented by its Public Prosecutor, High Court for the State of Telangana.
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Respondents

! Counsel for Petitioner : Mr. T.V. Ramana Rao

^Counsel for the respondent(s) : Mr. Palle Nageshwar Rao,
learned Public Prosecutor,
representing respondent No.1-
State.

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> HEAD NOTE:

? Cases referred

1. *R. Rajagopal v. State of Tamil Nadu* (1994)
2. *Maneka Gandhi v. Union of India* (1978),
3. *Rangarajan v. P. Jagjivan Ram* (1989)
4. *Subramanian Swamy v. Union of India* (2016) 7 SCC 221
5. *Shreya Singhal v. Union of India* (2015) 5 SCC 1
6. *Kedar Nath Singh v. State of Bihar* (1962) SCR Supl. (2) 769
7. *Lalita Kumari v. Govt. of U.P.* (2014) 2 SCC 1
8. *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273
9. *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335

THE HONOURABLE SRI JUSTICE N.TUKARAMJI**CRIMINAL PETITION NOS.4905, 4903 & 8416 of 2025****COMMON ORDER**

I have heard Mr. T.V.Ramana Rao, learned counsel for petitioners and Mr.Palle Nageshwar Rao, learned Public Prosecutor, representing the respondent No.1-State.

2. As the crimes are arising out of similar factual matrix and the petitioner/accused is alleged to have committed the offences within the scope of self same sections of prosecution, these matters were heard together and are being adjudicated in this common order.

3. **Criminal Petition No. 4905 of 2025** has been filed under Section 528 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (for short 'the BNSS') seeking quashment of the proceedings in FIR No. 8 of 2025 registered at Police Station, CCPS Ramagundam, Telangana Cyber Security Bureau ("TSCSB") against the petitioner/accused.

Pursuant to a report lodged by Respondent No. 2, the said police station registered a case alleging commission of offences under Sections 192, 353(1)(b), 352, and 356 read with Section

61(2) of the *Bharatiya Nyaya Sanhita, 2023* (“BNS”) and Section 67 of the *Information Technology Act, 2008* (“ITA, 2008”). The allegation is that the petitioner, using the Twitter handle @Nallabalu, posted a tweet criticising the Congress Party in the following terms:

“Congress is the scourge of the state! If the field is affected by the pest, the people will be disturbed.”

4. **Criminal Petition No. 4903 of 2025** is likewise filed under Section 528 of BNSS, 2023 seeking quashment of the proceedings in FIR No. 13 of 2025 registered at Police Station, CCPS Karimnagar, TSCSB, against the petitioner/accused. On the basis of a report by Respondent No. 2, the police registered a case for offences punishable under Sections 192, 353(1)(b), 352, and 356 read with Section 61(2) of BNS, along with Section 67 of ITA, 2008. It is alleged that the petitioner posted on Twitter a photograph of the Hon’ble Chief Minister of Telangana with the caption:

“No Vision, No Mission, Only 20% Commission! This is how the 15-month rule of the Revanth Reddy led Congress Government is in Telangana.”

The complainant, a police constable, alleges that this post was intended to provoke public unrest, defame the Chief Minister, and disturb public tranquility.

5. **Criminal Petition No. 8416 of 2025** has also been filed under Section 528 of BNSS, 2023, seeking quashment of proceedings in FIR No. 146 of 2025 registered at Police Station, GDK-I Town, Ramagundam, against the petitioner (arrayed as Accused No.2).

On 18.03.2025, Respondent No. 2 lodged a complaint alleging that, on 04.03.2025 and 11.03.2025, while browsing the social media platform “X” (formerly Twitter), he encountered allegedly vulgar and abusive messages posted by two individuals, including the petitioner, targeting the Hon’ble Chief Minister of Telangana. The case has been registered for offences punishable under Sections 352 and 356(2) read with Section 3(5) of BNS.

6. Learned counsel for the petitioner contends that the impugned tweets constitute an exercise of the petitioner’s fundamental right to freedom of speech and expression, made on social media purely as expressions of political opinion, without any intent to incite violence or disturb public peace.

Consequently, the essential ingredients of the offences under Sections 352 and 353 of the *Bharatiya Nyaya Sanhita, 2023* (for short 'the BNS') are absent.

It is further argued that there is no element of false evidence involved, and thus, Section 192 of the BNS, pertaining to the offence of giving or fabricating false evidence has no application, as neither the offence of rioting nor false evidence is even alleged in the complaint. The attribution of these provisions to the petitioner is, therefore, without basis.

With respect to Section 356 of BNS (defamation), counsel submits that the provision mandates that the complaint must be made by the 'aggrieved person' and not by any unrelated third party. Similarly, Section 67 of the *Information Technology Act, 2008* ('the IT Act'), which penalises the publication or transmission of obscene material, is inapplicable, as even accepting the impugned statements at face value, they amount, at best, to political criticism and not obscenity.

Furthermore, the allegation is limited to the petitioner having posted the tweet in question on social media. In the absence of any averment suggesting the involvement of other individuals, the provisions relating to criminal conspiracy under

Section 61(2) of BNS or common intention under Section 3(5) of BNS cannot be invoked.

Counsel emphasizes that all the complaints are devoid of specific particulars regarding the allegedly obscene content, the precise dates of posting, or any actual impact on public order. The police reports were filed belatedly, rendering the proceedings arbitrary and unsustainable. On these grounds, it is prayed that the records be called for and the criminal proceedings against the petitioner be quashed.

7. In response, the learned Public Prosecutor submits that, despite the issuance of multiple notices under Section 35(3) of the BNSS, the petitioner willfully failed to appear and produce the requisite electronic devices and documents, thereby demonstrating deliberate non-compliance.

It is further contended that the petitioner is implicated in multiple criminal cases across the State of Telangana, indicative of a continuing pattern of similar conduct. The prosecution asserts that the tweet in question was intentionally posted with the objective of defaming and provoking unrest against a democratically elected government. This, it is argued, squarely

attracts the provisions of Section 67 of the IT Act, which is independently punishable irrespective of any claim of defamation.

With particular reference to FIR No. 146 of 2025, it is alleged that the petitioner/accused, along with another individual, is associated with the Bharat Rashtra Samithi (BRS) party and, on 04.03.2025 and 11.03.2025, posted defamatory and abusive content on the social media platform "X" (formerly Twitter) targeting the Hon'ble Chief Minister of Telangana. These posts, according to the prosecution, provoked public outrage and caused social unrest.

The prosecution further submits that the investigation is at a nascent stage and the witness statements have been recorded, and relevant digital evidence has been collected. In light of the pendency of the investigation, it is prayed that the present petitions be dismissed.

8. I have carefully considered the submissions of the learned counsel and perused the materials on record.

9. The social media posts attributed to the petitioner, which contain the alleged statements, are prima facie evident from the record. At the outset, it is a settled proposition of law that content posted on social media platforms may, in appropriate

circumstances, amount to criminal offences such as defamation, hate speech, incitement to violence, public mischief, and other cognizable wrongs. In such cases, prosecution is maintainable under the relevant provisions of the *Bharatiya Nyaya Sanhita, 2023 (BNS)*, the *Indian Penal Code, 1860 (IPC)* (where applicable), and the *Information Technology Act, 2000 (IT Act)*.

10. However, to proceed with prosecution on such imputations, the investigating agency must prima facie find admissible material both the requisite intent (*mens rea*) and the actual or probable harmful effect (*actus reus*) of the alleged act. Mere publication of offensive or critical content, without making out a case of an intention to cause the prohibited consequences, is insufficient to proceed with the criminal proceedings. Authentication of the content, proper collection of evidence and positive identification of the person responsible for the posting are essential prerequisites. Courts, in this regard, are duty-bound to adopt a balanced approach safeguarding the constitutional guarantee of freedom of speech and expression under Article 19(1)(a) while ensuring that such freedom does not extend to speech that causes tangible harm, such as misinformation, targeted harassment, or incitement

to disorder. Preserving this balance is critical to both democratic discourse and maintenance of public order.

11. In the present case, the allegations broadly encompass charges of provocation to commit rioting, fabrication of false evidence, intentional insult with intent to provoke breach of peace, circulation of statements conducing to public mischief, and defamation. The maintainability of prosecution for these offences necessarily depends upon the specific factual context in which the impugned acts occurred.

12. Acts that amount to intentional insult likely to provoke breach of peace, online mischief calculated to promote enmity or violence, and defamatory imputations, if duly established would justify continuation of prosecution. Conversely, where the statutory ingredients of the offence are absent, mere political criticism, however harsh, cannot attract criminal sanction.

13. The police report in FIR No. 8 of 2025 alleges that the petitioner's tweet was defamatory, provocative, and politically motivated. In FIR No. 13 of 2025, the complaint alleges that the statements were false, politically motivated, and devoid of legal merit. FIR No. 146 of 2025 alleges that the petitioner's remarks

sought to damage the reputation of the Hon'ble Chief Minister, thereby disturbing social peace and creating a likelihood of conflict between rival political groups.

14. The relevant statutory provisions are summarised below:

a. **Section 192 BNS – Wanton provocation with intent to cause riot:** Attracts liability where a person, with ill intent, provokes others with knowledge or intention that such provocation may cause rioting. Mere offensive language without such intent is insufficient.

b. **Section 191 BNS – Rioting:** Requires an unlawful assembly of five or more persons using force or violence towards a common illegal object. A social media post alone does not complete this offence unless it incites and results in unlawful assembly and violence.

c. **Section 352 BNS – Intentional insult to provoke breach of peace:** Necessitates proof of grave and sudden provocation, typically involving direct and abusive remarks calculated to incite retaliation.

d. **Section 353 BNS – Statements conducing to public mischief:** Penalises circulation of false or incendiary statements designed to cause public alarm, enmity, or hatred.

e. **Section 356(2) BNS – Defamation:** Applies to publication of false imputations intended or known to cause harm to reputation. Essential elements include falsity, intent, knowledge of probable harm, and resulting reputational injury.

f. **Section 61(2) BNS – Criminal conspiracy:** Requires proof of agreement between two or more persons to commit an offence.

g. **Section 3(5) BNS – Common intention:** Extends liability to acts done jointly in furtherance of a common unlawful object.

h. **Section 67 IT Act – Obscene material in electronic form:** Limited to sexually explicit or lascivious content capable of corrupting or depraving viewers.

15. In light of the above provisions, the allegations against the petitioner must be scrutinised to determine whether they establish a prima facie case.

16. The substratum of the complaints is that the petitioner (i) engaged in political criticism of the ruling party and government, and (ii) used allegedly vulgar or abusive remarks against the Hon'ble Chief Minister.

17. Upon review of the impugned social media posts, the legal position is as follows;

The first post, which describes the Congress party as a “scourge” and likens it to a “pest,” is harsh and metaphorical but constitutes political criticism. It does not attract Section 192 of the BNS on promotion of enmity, since it targets a political party and not a protected group. Nor does it fall within Section 352 BNS on intentional insult or Section 353(1)(b) BNS on public mischief, as there is no imminent threat of public disorder. At most, it could amount to defamation under Section 356 read with Section 61(2) BNS; however, statutory exceptions such as truth for public good and fair comment provide strong defences.

18. **The second post**, which alleges “20% commission” in the rule of the Chief Minister and the ruling Congress party in Telangana, is closer to the domain of defamation as it names both the Chief Minister and the party. A government cannot sue for defamation, as held in *R. Rajagopal v. State of Tamil Nadu*

(1994), but individual ministers and political parties as associations may do so. Even here, statutory defences of truth and fair comment in the public interest remain available. Sections 192, 352, and 353(1)(b) BNS are inapplicable, as the criticism is political, not communal or provocative.

19. ***The third post***, involving vulgar and abusive remarks against the Chief Minister, may at best be construed as defamation. Section 67 of the Information Technology Act, 2008, which penalizes obscene material in electronic form, is not applicable, as the remarks, though abusive, are not obscene.

20. Constitutionally, all three posts fall within the protection of Article 19(1)(a), which guarantees freedom of speech and expression. Restrictions under Article 19(2) apply only in narrow circumstances such as defamation, incitement to violence, or imminent threat to public order. The Supreme Court in *Maneka Gandhi v. Union of India* (1978), *Rangarajan v. P. Jagjivan Ram* (1989), and *Subramanian Swamy v. Union of India* (2016) has consistently affirmed the high level of protection granted to political expression in a democracy.

21. As for procedure, under the BNSS, criminal defamation is punishable by up to two years' imprisonment, a fine, or both. Cognizance can only be taken on a complaint filed by the aggrieved person, or in limited cases by a public prosecutor with prior sanction. The complaint is filed before a Magistrate of the First Class, who records statements and issues summons if a prima facie case exists. The trial then proceeds as a summons case, where the accused may rely on the ten statutory exceptions, including truth, fair comment, and privileged communication.

22. In conclusion, the impugned posts do not attract the application of Sections 192, 352, or 353(1)(b) of the Bharatiya Nyaya Sanhita, 2023, nor Section 67 of the Information Technology Act, 2008. At best, they may fall within the limited ambit of defamation under Section 356 read with Section 61(2) BNS. Even in that context, however, the availability of statutory exceptions, such as truth for the public good and fair comment, as well as the robust constitutional safeguards for political expression, provide a strong shield to the petitioner. Consequently, any attempt to prosecute the petitioner under provisions other than defamation would be legally unsustainable.

More importantly, the present criminal proceedings were initiated on the basis of police reports filed by third parties, and not through a complaint by the aggrieved person, as mandatorily required under the BNSS framework for prosecuting defamation. In the absence of locus standi of the complainant, the continuation of these proceedings would be not only improper but also untenable in law.

23. Article 19(1)(a) of the Constitution guarantees freedom of speech and expression, subject to reasonable restrictions under Article 19(2), which permits limitations only in the interests of sovereignty, integrity, security of State, friendly relations with foreign States, public order, decency, morality, contempt of court, defamation, and incitement to offence.

24. The penal provisions alleged require specific prima facie material: defamation requires false imputations harming reputation; insult requires grave and sudden provocation; public mischief requires circulation of false or inflammatory material; and Section 67 IT Act applies only to obscene sexual content. Notably, criminal defamation is a non-cognizable offence under CrPC, investigation of which requires a magistrate's order under Section 155.

25. The Hon'ble Supreme Court has consistently clarified the limits of criminal liability for speech:

- i. *Shreya Singhal v. Union of India* (2015) 5 SCC 1 held that mere annoyance or offensive remarks are not criminal; only incitement to violence or disorder justifies restriction.
- ii. *Kedar Nath Singh v. State of Bihar* (1962) SCR Supl. (2) 769 upheld the constitutionality of sedition law but limited its application to speech inciting violence or disorder.
- iii. *Subramanian Swamy v. Union of India* (2016) 7 SCC 221 upheld criminal defamation but stressed the requirement of false factual imputations and actual reputational injury, distinguishing it from political criticism.
- iv. *Lalita Kumari v. Govt. of U.P.* (2014) 2 SCC 1 mandated FIR registration only for cognizable offences; for non-cognizable offences such as defamation, preliminary enquiry or judicial sanction is required.
- v. *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273 cautioned against mechanical arrests and stressed proportionality in criminal process.

26. Applying these principles, the impugned tweets, such as “Congress is the scourge...” and “No Vision, No Mission...”, are

plainly political criticism and satire, which do not amount to defamation or public mischief and are fully protected by Article 19(1)(a). The third tweet, though allegedly vulgar or abusive towards the Chief Minister, cannot be equated with defamation absent false factual imputations. Since defamation is non-cognizable, the registration of FIRs without compliance with Section 174 BNSS and without a Magistrate's order is procedurally unsustainable. None of the tweets contain obscenity under Section 67 IT Act, nor do they disclose elements of public mischief (Section 353 BNS) or provocation to riot (Sections 191/192 BNS). Additionally, the mechanical registration of FIRs in this case, without preliminary enquiry, is in violation of the binding dicta in *Lalita Kumari* (supra).

27. When the factual matrix of the present case is examined in light of the seven illustrative categories laid down in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, it is evident that the proceedings squarely fall within multiple categories warranting quashment. First, under Categories (1) and (2), the allegations in the FIRs, even if taken at their face value and accepted in their entirety, do not disclose the commission of any cognizable offence, save for a tenuous allegation of defamation. Secondly,

under Category (3), the uncontroverted allegations on record fail to satisfy the statutory ingredients of the offences invoked, such as provocation to riot, intentional insult, or public mischief. Finally, under Category (5), there exists a clear legal bar to prosecution, inasmuch as the law mandates that criminal defamation proceedings can only be initiated by way of a private complaint by the aggrieved person. In the present case, the FIRs have been registered on the basis of police reports or third-party complaints, which render them procedurally incompetent and legally unsustainable.

28. For the aforesaid reasons, this Court is of the considered view that the impugned tweets, though critical, fall squarely within the ambit of legitimate political expression. In the absence of statutory ingredients of the alleged offences, the registration of FIRs without requisite enquiry or judicial approval is unsustainable in law, and continuation of proceedings would amount to an abuse of process. Accordingly, the criminal petitions are liable to be allowed.

29. Before parting with this judgment, this Court considers it necessary to make certain observations. Having regard to the factual and legal position discussed herein, and with a view to

safeguarding fundamental rights as well as preventing the criminal process from being invoked mechanically or arbitrarily, it is appropriate to prescribe a set of operational guidelines for police authorities and Judicial Magistrates when dealing with proceedings initiated on the basis of social media posts. These directions are particularly relevant in cases where the registration of First Information Reports (FIRs) is sought in connection with such posts. Accordingly, the police authorities are directed to adhere to the following guidelines:

*i. **Verification of locus standi:*** Before registering any FIR for alleged defamation or similar offences, the police must verify whether the complainant qualifies as the “person aggrieved” in terms of law. Complaints by unrelated third parties lacking standing are not maintainable, except where the report concerns a cognizable offence.

*ii. **Preliminary inquiry in cognizable offences:*** Where a representation/complaint discloses a cognizable offence, the police shall, prior to registration of crime, conduct a preliminary inquiry to ascertain whether the statutory ingredients of the alleged offence are, prima facie, made out.

iii. High threshold for media post/speech-related offences: No case alleging promotion of enmity, intentional insult, public mischief, threat to public order, or sedition shall be registered unless there exists *prima facie* material disclosing incitement to violence, hatred, or public disorder. This threshold must be applied in line with the principles laid down in *Kedar Nath Singh v. State of Bihar*, 1962 Supp (2) SCR 769, and *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

iv. Protection of political speech/post: The police shall not mechanically register cases concerning harsh, offensive, or critical political speech. Only when the speech amounts to incitement to violence or poses an imminent threat to public order may criminal law be invoked. Constitutional protections for free political criticism under Article 19(1)(a) of the Constitution must be scrupulously enforced.

v. Defamation as a non-cognizable offence: Since defamation is classified as a non-cognizable offence, the police cannot directly register an FIR or crime in such matters. The complainant must be directed to approach the jurisdictional Magistrate. Police action may follow only upon a specific order of the Magistrate under Section 174(2) of the BNSS.

vi. Compliance with arrest guidelines: In all cases, the police shall strictly comply with the principles laid down in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273. Automatic or mechanical arrests are impermissible, and the principle of proportionality in the exercise of criminal process must be observed.

vii. Prior legal scrutiny in sensitive cases: In matters involving political speech/post or other sensitive forms of expression, the police shall obtain prior legal opinion from the Public Prosecutor before registering an FIR, to ensure that the proposed action is legally sustainable.

viii. Frivolous or motivated complaints: Where a complaint is found to be frivolous, vexatious, or politically motivated, the police shall close the matter under Section 176(1) of the BNSS, citing absence of sufficient grounds for investigation.

30. In light of the above directions, Criminal Petition Nos. 4905, 4903, and 8416 of 2025 are allowed. Consequently, the proceedings against the petitioner in (i) FIR No. 08 of 2025 registered at Police Station, CCPS Ramagundam, Telangana Cyber Security Bureau (TSCSB); (ii) FIR No. 13 of 2025 registered at Police Station, CCPS Karimnagar, TSCSB; and (iii)

FIR No. 146 of 2025 registered at Police Station, GDK-I Town, Ramagundam, are hereby quashed.

N.TUKARAMJI, J

Date: 10.09.2025

Note : Registry is directed to serve a copy to the DGP, Telangana State Police, for appropriate action and to the Judicial First Class Magistrates of the State of Telangana, for reference.

B/o.
CCM/SVL.