

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

FRIDAY, THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No: 11796 of 2024

Between:

N.Sridhar, S/o Ramakrishna Rao, Age. 61 years, Occ. Business, R/o Module 19, Mount View enclave, Road No. 12, Banjara Hills, Hyd. (this is the address furnished in the Charge Sheet) Presently at, PNT Colony Ashok Nagar, Hyd.

...Petitioner/Accused

AND

1. State of Telangana, Rep. by its Public Prosecutor., High Court Hyderabad
2. Yericherla Sundara Rao, s/o Late Yericherla Daniel, Age. 56 years, Occ. Enforcement Officer, R/o 3-4-763, Barkahpura Hyd.

...Respondents

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 CC. No. 321 of 2016 on the file of XX Metropolitan Magistrate, Cyberabad.

I.A. NO: 1 OF 2024

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 CC. No. 321 of 2016 on the file of XX Metropolitan Magistrate, Cyberabad.

I.A. NO: 1 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 permit the petitioner to appear and argue the Crp. No.11796 of 2024 and all other interlocutory applications therein, as party in person.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri S. Ravi, Senior Counsel representing Sri Ch Satya Sadhan, Advocate for the Petitioner and Sri M. Vivekananda Reddy, Assistant Public Prosecutor on behalf of the Respondent No.1 and of Sri M.P. Kashyap, Standing Counsel for the Employees' Provident Fund Organisation (EPFO), Advocate 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 N.TUKARAMJI

CRIMINAL PETITION No. 11796 OF 2024

DATE: 01.05.2026

Between :

N. Sridhar

... Petitioner/Accused

AND

State of Telangana, Represented by its Public Prosecutor,
High Court for the State of Telangana, Hyderabad, and
another.

... Respondents.

ORDER

This Criminal Petition is filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 ('BNSS, 2023'), seeking quashment of
the proceedings against the petitioner in C.C. No. 321 of 2016, pending
on the file of the learned XX Metropolitan Magistrate, Cyberabad at
Malkajgiri.

2. The petitioner is sole accused in the aforesaid Calendar Case
arraigned for the offences punishable under Section 406 of the Indian

Penal Code, 1860 and Section 14 of Employees Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act, 1952).

3. I have heard Mr. S. Ravi, learned Senior Counsel, appearing on behalf of Mr. Ch. Satya Sadhan, learned counsel for the petitioner; Mr. M. Vivekananda Reddy, learned Assistant Public Prosecutor, representing Respondent No. 1-State; and Mr. M. P. Kashyap, learned Standing Counsel for the Employees' Provident Fund Organisation (EPFO), appearing for Respondent No. 2.

4. Briefly stated, the prosecution case originates from a complaint dated 05.03.2015 lodged by Respondent No. 2/Enforcement Officer, alleging that M/s. Sankhya Infotech Limited had defaulted in remitting Employees' Provident Fund (EPF) contributions for the period from March 2013 to December 2014, in violation of the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, "EPF Act").

5.1. Learned Senior Counsel for the petitioner contends that, although the petitioner is described as the Chairman and Managing Director of the Company, he has been implicated without any specific material establishing his direct role, active participation, or responsibility in the

alleged default. It is argued that the charge sheet has been filed without arraying the Company, the principal employer as an accused, which is fatal to the prosecution, particularly in cases involving corporate liability. It is further submitted that no cogent material has been placed on record demonstrating entrustment or misappropriation attributable to the petitioner, so as to attract the offence under Section 406 of the Indian Penal Code, 1860.

5.2. The petitioner also contends that he does not fall within the definition of "employer" under Section 2(e) of the EPF Act, and no material has been produced to establish that he exercised ultimate control over the affairs of the establishment. Additionally, it is submitted that the alleged dues have since been cleared by the Company, and the Company has undergone insolvency resolution proceedings before the National Company Law Tribunal, Hyderabad, culminating in approval of a resolution plan, thereby settling its liabilities. It is further contended that even on merits, the allegations are unsupported by any inspection report or substantive evidentiary foundation.

5.3. The petitioner places reliance on the judgments of the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604; *Pepsi Foods Ltd. v. Special Judicial Magistrate*, AIR 1998 SC 128; and

Rajiv Thapar v. Madan Lal Kapoor, AIR 2013 SC 1944, to contend that where the criminal proceedings amount to abuse of process of law and fail to disclose essential ingredients of an offence, the High Court is justified in exercising its inherent jurisdiction under Section 482 Cr.P.C. to quash the proceedings. It is also urged that continuation of prosecution in the present case would violate the petitioner's fundamental rights under Articles 14 and 21 of the Constitution of India.

6.1. Learned Standing Counsel for Respondent No. 2 and Assistant Public Prosecutor submit that the prosecution was initiated on account of non-payment of EPF contributions within the prescribed time, despite deductions having been made from employees' wages. It is contended that such non-remittance constitutes misappropriation and attracts penal liability under Section 406 IPC and Section 14 of the EPF Act.

6.2. However, it is fairly admitted that the outstanding dues have subsequently been cleared and that the Company has undergone insolvency proceedings. It is also acknowledged that neither the Company nor its successor entities have been arrayed as accused in the present case. Nevertheless, it is contended that by virtue of his position, the petitioner was responsible for ensuring compliance with statutory obligations, and therefore, the prosecution is maintainable.

7. I have perused the material on record and carefully considered the submissions of the learned counsel.

8. For constituting an offence under Section 406 IPC, the prosecution must establish (i) entrustment of property, and (ii) dishonest misappropriation or conversion thereof. Similarly, Section 14 of the EPF Act prescribes penal consequences for default in compliance with statutory obligations. The determination of dues under the Act is governed by Sections 7A and 13, which provide for adjudication and inspection through a statutory mechanism. Thus, penal liability ordinarily presupposes proper determination of dues in accordance with law.

9. It is also well settled that the inherent jurisdiction of the High Court under Section 482 Cr.P.C. (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) is to be exercised sparingly to prevent abuse of process of law and to secure the ends of justice, as laid down in *Bhajan Lal, Pepsi Foods Ltd.*, and *Rajiv Thapar (supra)*.

10. A holistic evaluation of the material on record reveals, firstly, that the Company, the principal offender has not been arrayed as an accused.

In cases involving corporate offences, prosecution of the Company is ordinarily a *sine qua non* for fastening vicarious liability upon its officers.

11. Section 14A(2) of the EPF Act, which is *pari materia* with Section 141 of the Negotiable Instruments Act, provides that where an offence is committed by a Company, every person who, at the time of commission of the offence, was in charge of and responsible for the conduct of its business shall be deemed guilty. However, such vicarious liability arises only when specific averments and supporting material demonstrate the role of the individual concerned.

12. In the present case, there is a complete absence of material indicating that the petitioner was in charge of, and responsible for, the day-to-day affairs of the Company. The liability sought to be imposed is based solely on the petitioner's designation, which is impermissible in law.

13. Secondly, the essential ingredients of criminal breach of trust are not satisfied. There is no material demonstrating entrustment of property to the petitioner or any dishonest misappropriation attributable to him. Mere non-payment of statutory dues, in the absence of mens rea, does not automatically constitute an offence under Section 406 IPC.

14. Thirdly, the statutory scheme under the EPF Act contemplates determination of liability through due process. The material on record does not prima facie establish that such determination has been carried out in accordance with Sections 7A and 13 of the Act prior to initiation of criminal proceedings.

15. Fourthly, the prosecution lacks substantive evidentiary support. The charge sheet does not disclose legally admissible material sufficient to prima facie establish the petitioner's involvement in the alleged offence.

16. Lastly, the fact that the Company has undergone insolvency resolution and settled its liabilities further weakens the basis of criminal prosecution, particularly in the absence of any independent material establishing criminal intent or culpability on the part of the petitioner.

17. In light of the foregoing, this Court is of the considered opinion that the present case squarely falls within the categories enumerated in *Bhajan Lal* (supra), warranting exercise of inherent jurisdiction. The material on record does not disclose a prima facie sustainable case against the petitioner, and continuation of the proceedings would amount to an abuse of process of law.

18. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner in C.C. No. 321 of 2016 pending on the file of the learned XX Metropolitan Magistrate, Cyberabad at Malkajgiri, are hereby quashed.

Pending miscellaneous applications, if any, shall stand closed.

SD/- V.HARI PRASAD
DEPUTY REGISTRAR
(Signature)
SECTION OFFICER

//TRUE COPY//

One Fair Copy to the Honourable Sri Justice N.Tukaramji
(For his Lordships kind perusal)

To,

1. The XX Metropolitan Magistrate, Cyberabad at Malkajgiri
2. The Station House Officer, Kushaiguda Police Station, Cyberabad
3. 11 LR Copies
4. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi
5. The Secretary, Advocates Association Library, High Court for the State of Telangana, High Court Buildings at Hyderabad
6. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
7. One CC to Sri Ch Satya Sadhan, Advocate [OPUC]
8. Two CCs to Sri M.P. Kashyap, Standing Counsel for the Employees' Provident Fund Organisation (EPFO) [OPUC]
9. Two CD Copies

ABK/BA

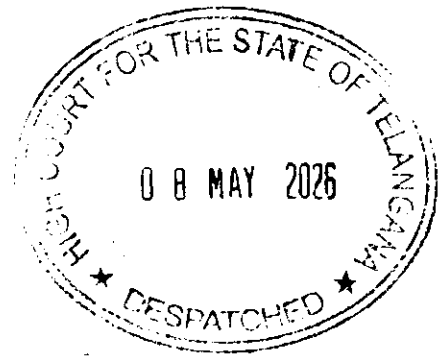
(Signature)

HIGH COURT

DATED: 01/05/2026

ORDER

CRLP.No.11796 of 2024



ALLOWING THE CRIMINAL PETITION

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