

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

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**Criminal Petition No.9901 OF 2021**

Between:

Vanam Sudhakar and 4 others

... Petitioners

And

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

... Respondents

DATE OF JUDGMENT PRONOUNCED: 08.02.2023

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

- 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

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**K.SURENDER, J**

\* THE HON'BLE SRI JUSTICE K. SURENDER

+ CrI.P.No.9901 of 2021

% Dated 08.02.2023

# Vanam Sudhakar and 4 others

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High Court for the State of Telangana  
and another.

... Respondents

! **Counsel for the Petitioner:** Sri P.Giri Krishna

^ **Counsel for the Respondents:**

- 1) Sri S.Sudershan  
Additional Public Prosecutor for R1
- 2) Ms.K.Sravya,  
Legal Aid for R2

>**HEAD NOTE:**

? **Cases referred**

<sup>1</sup>( 2014) 2 SCC 1

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL PETITION No. 9901 OF 2021****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/A1 to A5 to quash the proceedings in C.C.No.812 of 2021 on the file of Additional Judicial Magistrate of First Class at Ramannapet, Yadadri Bhongir District. The offences alleged against the petitioners/A1 to A5 are under Sections 290, 325 and 506 R/w.34 of the Indian Penal Code.

2. Heard. Perused the record.
3. The petitioners are questioning the petty case charge sheet which is filed pursuant to information received by the Ramannapet Police of Yadadri Bhongir District, and a GD entry was made. A requisition was sent to the Additional Judicial First Class Magistrate to accord sanction to investigate the complaint, since the offences alleged were non-cognizable in nature and punishable under Sections 290, 323 and 506 r/w.34 of the Indian Penal Code. Having received such permission, the Police Ramannapet investigated the case and

filed charge sheet for the offences under Sections 290, 325 and 506 r/w.34 of the Indian Penal Code.

4. According to the charge sheet, on 04.06.2020 at 13:50 hours while the 2<sup>nd</sup> respondent was sleeping in the varanda, these accused went there and all of them kicked on his face with hands, as a result of which the 2<sup>nd</sup> respondent received bleeding injuries to his nose.

5. The Police having investigated the case, filed charge sheet.

6. Learned Counsel appearing for the petitioners would submit that the charge sheet has to be quashed solely on the ground that the Police had not followed procedure prescribed in investigating a cognizable offence. The registration of FIR is *sine qua non* before investigating into a cognizable offence and unless such registration of FIR is done, the consequent charge sheet is void and since procedure has not been followed, the charge sheet has to be quashed. He relied on the Judgment of Honourable Supreme Court in ***Lalita Kumari v. Government***

**of U.P. and others**<sup>1</sup> and has drawn the attention of this Court to para-111 wherein at points (i) and (ii) it is stated as follows;

“(i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

(ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.”

According to the counsel, since no FIR was registered, the question of the Police filing a charge sheet does not arise. Accordingly, the charge sheet in C.C.812/2021 is bad in law and deserved to be quashed.

7. On the other hand, learned counsel for the 2<sup>nd</sup> respondent would submit that a GD entry was made and permission was sought and there after the charge sheet was filed, when the Police found that the 2<sup>nd</sup> respondent received grievous injuries. Having gone through the record, the Police had taken the complaint and mentioned as “consecutive number 01/2020”.

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<sup>1</sup> (2014) 2 SCC 1

In accordance with the procedure prescribed under Section 155(2) of the Cr.P.C., a requisition was made to the Judicial First Class Magistrate and after permission was accorded, the case was investigated into. However, during the course of investigation, the Police found an offence under Section 325 of the Indian Penal Code is made out.

8. In the present case, the investigation started on the basis of the Police finding that the offences were non-cognizable offences and accordingly sought permission from the learned Magistrate. In the event of the Police subsequently finding that a cognizable offence is also made out, it will not preclude the Police from filing the charge sheet for the said offence, though a separate FIR was not registered as it is of no consequence. In the process of investigation, the Police had followed the procedure prescribed under Section 155(2) of Cr.P.C. for investigating into the case. The information received was recorded, G.D. entry made and permission taken from learned Magistrate for investigation.

9. The Judgment relied on by the learned counsel for the petitioners in ***Lalita Kumari's*** case, directs registration of FIR

in case of receiving any information making out a cognizable offence. In the said circumstances, the Honourable Supreme Court held that registration has to be done when a cognizable offence report is received by the Police. It does not mean that in the present facts and circumstances of the case when the Police has initiated investigation into a non-cognizable offence it will debar the Police from filing charge sheet for a cognizable offence.

10. Accordingly, there are no grounds and the Criminal Petition is dismissed.

Miscellaneous applications pending, if any, shall stand closed.

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**K.SURENDER, J**

Date: 08.02.2023  
Note: Issue L.R. copy  
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**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION No.9901 OF 2021**

**Dt. 08.02.2023**

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