

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

Criminal Petition No.8425 OF 2020

Between:

M/s.Four Square Homes Private Limited ... Petitioner

And

The State of Telangana,
Through Banjara Hills Police,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another. ... Respondents

DATE OF JUDGMENT PRONOUNCED: 09.02.2023
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

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.P. No. 8425 of 2022

% Dated 09.02.2023

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And

\$ The State of Telangana,
Through Banjara Hills Police,
Rep. by its Public Prosecutor,
High Court for the State of Telangana
and another. ... Respondents

! **Counsel for the Petitioner:** Sri V.V.Ramana

^ **Counsel for the Respondents:** Sri S.Sudershan
Additional Public Prosecutor for R1
Sri Prakash Chakravarthy for R2

>**HEAD NOTE:**
? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.8425 OF 2022

ORDER:

1. This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/Accused 1 & 2 to quash the proceedings against them in C.C.No.6023 of 2022 on the file of III Additional Chief Metropolitan Magistrate, Hyderabad at Nampally.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. The 2nd respondent filed a private complaint against the petitioners. Learned Magistrate having recorded the sworn statements of the complainant has taken cognizance of the offence under Section 420 of IPC. In the sworn statement, the 2nd respondent stated that there were loan transactions and though the amounts were repaid one cheque bearing No.000162 which was with them as security was not returned. Basing on the said sworn statement, learned Magistrate has passed orders as follows:

“Heard gone through the record along with statement of complainant and documents filed. In view of the specific allegations leveled against the accused, prima

facie case is made out. Hence, cognizance is taken under Section 420 IPC of against the accused. Issue summons to Respondent/Accused. Call on 23.09.2022.”

4. In the said order, learned Magistrate has not narrated the facts of the case and what are the reasons for the Magistrate to come to a conclusion that there is a *prima facie* case against the petitioners for taking cognizance under Section 420 of IPC. Magistrates are not expected to fill up proforma order as in the present case and issue summons to the accused. Issuance of summons in a criminal case is serious issue and the Magistrates are not expected to issue summons mechanically without application of mind. The cognizance order dated 05.08.2022 does not reflect that the Magistrate has applied his mind to the facts of the case to issue summons against the petitioners. For the said reason, cognizance order dated 05.08.2022 is hereby set aside. However, this order will not preclude the Magistrate from taking cognizance by giving reasons.

5. Accordingly, the Criminal Petition is disposed off.

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

Date: 09.02.2023
kvs

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No. 8425 OF 2022

Dt. 09.02.2023

kvs