

2026 LiveLaw (SC) 74

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
J.B. PARDIWALA; J., SATISH CHANDRA SHARMA; J.
SPECIAL LEAVE PETITION (CRL) DIARY NO. 953 OF 2026; 19 January, 2026
PRACTICAL SOLUTIONS INC. (THR. AUTHORIZED REPRESENTATIVE)
versus
THE STATE OF TELANGANA & ORS.

Criminal Procedure – Quashing of FIR – Validity of interim directions to follow arrest procedures – The Supreme Court set aside an order of the High Court of Telangana which, while disposing of a petition to quash an FIR on the very first day, directed the Investigating Officer to follow the procedure under Section 35(3) of the BNSS (previously Section 41-A Cr.PC) and the Arnesh Kumar guidelines without hearing the *defacto* complainant.

Judicial Propriety – Right of Hearing – Held, that the High Court should not have entertained and disposed of the matter without issuance of notice to either the State or the *Defacto* Complainant – Noted that in petitions praying for the quashing of an FIR, the High Court should not pass orders directing compliance with Section 41-A Cr.PC (or Section 35(3) BNSS) as it indirectly amounts to granting relief that should only be considered if a *prima facie* case for quashing is established. [Relied on *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra* (2021) 19 SCC 401; Paras 9-13]

[Arising out of impugned final judgment and order dated 26-11-2025 in CRLP No. 15489/2025 passed by the High Court for The State of Telangana at Hyderabad]

For Petitioner(s): Mr. R. Basant, Sr. Adv. Mr. Kartik Venu, Adv. Mr. Siddhartha Iyer, AOR Mr. R. Jude Rohit, Adv. Mr. Arjan Ajai Singh Chonker, Adv. Mr. Naman Vashishtha, Adv. Mr. Aman Gupta, Adv. Ms. Srishti Ghoshal, Adv. Mr. Tonmoy Talukdar, Adv.

ORDER

1. Permission to file appeal is granted.
2. Leave granted.
3. This appeal arises from the order passed by the High Court of Telangana dated 26.11.2025 in Criminal Petition No. 15489 of 2025 by which the petition filed by the respondent nos.2 and 3, respectively, before us came to be disposed of with a direction to the Investigating Officer to follow the procedure as explained by this Court in its decision in *Arnesh Kumar vs. State of Bihar* reported in (2014) 8 SCC 273.
4. The relevant part of the impugned order reads thus: -
*“5. Perused the record. The allegations leveled against the petitioners pertain to the offences under 316(2), 318 (4) r/w 61(2) of BNS, which attracts punishment of less than seven years. Hence, without going into the merits of the case, this Court deems it appropriate to direct the petitioners/accused Nos. 1 and 2 to appear before the Investigating Officer on or before 17.12.2025 between 11:00 a.m. and 05:00 p.m. and in turn, the Investigating Officer is directed to follow the procedure laid down under Section 35 (3) of the BNSS (previously section 41-A of Criminal Procedure Code, 1973) and also the guidelines formulated by the Hon’ble Supreme Court of India in *Arnesh Kumar v. State of Bihar* scrupulously. However, the petitioners/accused Nos. 1 and 2 shall submit their defense and co-operate with the Investigating Officer as and when required by furnishing information and producing all relevant documents/material required for the purpose of, investigation and the Investigating Officer shall consider the same and complete the investigation strictly in accordance with law.”*

5. Mr. R. Basant, the learned senior counsel appearing for the appellant (*defacto* complainant) has a very serious grievance to redress insofar as the impugned order is concerned.

6. He vehemently submitted that in the first instance the High Court should not have entertained the writ petition and if at all the High Court was inclined to entertain the writ petition at least the *defacto* complainant who was very much there before the High Court should have been heard.

7. He would submit that the matter came to be disposed of by the High Court on the very first day without issuance of any notice, either to the State or to the *Defacto* Complainant.

8. At this stage, we are not saying anything insofar as the relief granted by the High Court is concerned.

9. We are inclined to set aside the impugned order and remit the matter to the High Court with a direction that let the appellant before us (*Defacto* complainant) be heard and thereafter the High Court may pass a fresh order.

10. In such circumstances, referred to above, the impugned order is set aside and the matter is remanded to the High Court. The High Court shall issue notice to the *Defacto* complainant i.e. the appellant herein, hear him and then pass the final order.

11. However, we make it clear that till the High Court decides afresh, no coercive steps be taken against the respondent nos. 2 and 3, respectively, before us.

12. We also take notice of the fact that infact the petition before the High Court was to quash the FIR. In a petition where quashing of the FIR is prayed for, the High Court should not have passed an order directing the Investigating Officer to comply with Section 41-A of the Criminal Procedure Code, 1973 (for short, "the Cr.PC) because it indirectly amounts to granting a relief which High Court could have considered only if a *prima facie* case for quashing of the FIR is made out.

13. The aforesaid proposition of law has been well explained by this Court in its decision in Neeharika Infrastructure (P) Ltd. v. State of Maharashtra reported in (2021) 19 SCC 401.

14. With the aforesaid, the appeal stands disposed of.