

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

WEDNESDAY, THE ELEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY

WRIT PETITION NO: 35006 OF 2024

Between:

1. Dr. Manchu Mohan Babu, S/o late Sri Manchu Narayana Swamy Naidu;
2. Manchu Vishnu, S/o Sri Manchu Mohan Babu;

Petitioners

AND

1. The State of Telangana, Rep. by its Principal Secretary Home Department, Secretariat Buildings, Secretariat, Hyderabad.
2. The Director General of Police, State of Telangana
3. The Commissioner of Police, Rachakonda Commissionerate, Hyderabad.
4. The Additional District Magistrate, Rachakonda Commissionerate, Hyderabad.
5. The Deputy Commissioner of Police, Maheshwaram
6. The Asst. Commissioner of Police, Pahadisharif
7. The Station House Officer, Pahadisharif Police Station, Pahadisharif.
8. Manchu Manoj, S/o Sri Manchu Mohan Babu, Aged about major, Occ Film Artist R/o Hyderabad.

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus;

A. Declaring the action of the Respondent Nos. 3 to 7 in failing to provide protection to the Petitioner No. 1 and family as represented vide Complaint dated 09.12.2024 as being illegal, arbitrary, and in violation of Art. 14 and 21 of the Constitution of India, and

B. Declaring the notices/ proceedings dated 10.12.2024 issued under Section 126 BNSS by the Respondent Nos. 3 and 4 to the Petitioners as being illegal, arbitrary, and in violation of Art. 14 and 21 of the Constitution of India, and

C. Consequently directing the Respondent Nos. 3 to 7 to act in accordance with law in terms of Complaint dated 09.12.2024 by providing necessary police protection to the Petitioner No. 1, and

D. Consequently to set aside notices/ proceedings dated 10.12.2024 issued under Section 126 BNSS by the Respondent Nos. 3 and 4 to the Petitioners as being illegal, arbitrary, and in violation of Art. 14 and 21 of the Constitution of India;

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of notices/ proceedings dated 10.12.2024 issued under Section 126 BNSS by the Respondent Nos. 3 and 4 to the Petitioners, pending disposal of WP 35006 of 2024, on the file of the High Court.

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent Nos. 3 to 7 to provide police protection to the Petitioner No. 1 by installing police picket at the subject property, pending disposal of WP 35006 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri S NAGESH REDDY, Advocate for the Petitioners, Mr. Mahesh Raje, GP FOR HOME, for the Respondent Nos.1 to 7, the Court made the following;

ORDER

Learned counsel for the petitioners placed reliance on the judgment of Delhi High Court in Bhai Sarabjit Singh @ Dr. Sabi Sabharwal v. State & another (2009 (112) DRJ 217) and submitted that the impugned notice issued under Section 126 BNSS is not maintainable in the eye of law. It is submitted that in FIR.No.643 of 2024 of Pahadishareef Police Station registered for the offences punishable under Sections 329(4), 115(2) and 351(2) read with Section 3 (5) of BNS, lodged on the complaint of respondent No.8, the petitioners are not named as accused. The said FIR was lodged on 09.12.2024. Later, on the complaint of petitioner No.1 complaining that his son -respondent No.8 caused disturbance at their house, FIR.No.644 of 2024 of Pahadishareef Police Station was registered for the offences punishable under Sections 329(4), 351(2) and 3 (5) of BNS. Learned counsel submitted that the incident occurred within the compound of petitioners' residence and not at public place. There is no public nuisance caused, as such, provision of Section 126 BNSS could not have been invoked. Further, there is no compliance of the requirement

under Section 126 BNSS and vaguely it is stated that there is breach of peace. Impugned show cause notice is issued without forming any opinion as to breach of peace and public tranquility.

Mr. Mahesh Raje, learned Government Pleader for Home, by placing reliance on the judgment of the Honourable Supreme Court in *Executive Engineer, Bihar State Housing Board vs. Ramesh Kumar Singh & others* (1996 (1) SCC 327), submitted that the writ petition is not maintainable as the petitioners were issued show cause notice. There are two groups involved herein, one group of petitioners aided by their bouncers and another group of respondent No.8 who allegedly came to the house of the petitioners with 30 individuals, thus, the respondent police have rightly invoked the provision of Section 126 of BNSS. It is stated that respondent No.8 has appeared and submitted his response to the show cause notice.

Learned counsel for the petitioners submitted that the police have exceeded their jurisdiction. The petitioners are popular film artists and petitioner No.1 is admitted in Hospital. Learned counsel submitted that there is nuisance caused by journalists and social media enthusiasts. False messages are circulated creating a negative image of the petitioners and their family members in the social media and it is leading to lot of inconvenience to the petitioners and their family members, as such, requested that respondent No.7 may be directed to arrange police picket at the house of the petitioners.

However, learned Government Pleader for Home submitted that it would be difficult to entertain such request and the facility of blue colts will be provided if there is breach of peace and tranquility.

Considering that the incident has occurred at the house of the petitioners and the other persons, who were present, were helpers and bouncers/security persons of the petitioners and respondent No.8, in the

prima facie opinion of this Court, there is no public nuisance caused nor there is any element of public peace and tranquility. According to the petitioners, it is a family dispute and interference of police is unwarranted.

In the above circumstances, appearance of the petitioners pursuant to the impugned notice dated 10.12.2024 is differed until 24.12.2024. Further, respondent No.6-Assistant Commissioner of Police, Pahadisharif, is directed to keep the house of the petitioners under surveillance for every two hours for maintaining law and order at the house of the petitioners and in the vicinity, till the next date of hearing and also ensure that the strangers and third parties to the family of the petitioners and respondent No.8 are not allowed into the house of the petitioners.

Post on 24.12.2024.

SD/-K.SREE RAMA MURTHY
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat Buildings, Secretariat, Hyderabad.
2. The Director General of Police, State of Telangana
3. The Commissioner of Police, Rachakonda Commissionerate, Hyderabad.
4. The Additional District Magistrate, Rachakonda Commissionerate, Hyderabad.
5. The Deputy Commissioner of Police, Maheshwaram
6. The Asst. Commissioner of Police, Pahadisharif
7. The Station House Officer, Pahadisharif Police Station, Pahadisharif.
8. Manchu Manoj, S/o Sri Manchu Mohan Babu, Aged about major, Occ Film Artist R/o Hyderabad. (for 1 to 8 by RPAD)
9. One CC to SRI. S NAGESH REDDY, Advocate [OPUC]
10. Two CCs to GP FOR HOME, High Court at Hyderabad. [OUT]
11. One spare copy

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HIGH COURT

BVRJ

DATED:11/12/2024

POST ON 24.12.2024



ORDER

WP.No.35006 of 2024

DIRECTION