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

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**CRIMINAL PETITION No. 11796 OF 2024**

Between:

N.Sridhar, S/o. Ramakrishna Rao, Age: 61 years, Occu: Business, R/o. Module 19, Mount View Enclave, Road No.12, Banjara Hills, Hyderabad. Presently at PNT Colony, Ashok Nagar, Hyderabad.

… Petitioner/Accused.

AND

1. State of Telangana, Represented by the Public Prosecutor, High Court for the State of Telangana, Hyderabad.

2. Yericherla Sundara Rao, S/o. Late Yericherla Daniel, Age: 56 years, Occu: Enforcement Officer, R/o. 3-4-763, Barkahpura Hyderabad.

… Respondents.

**ORDER PRONOUNCED ON: 01.05.2026**

**THE HONOURABLE SRI JUSTICE N. TUKARAMJI**

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgment? | : | Yes |
| 2. | Whether the copies of judgment may be Marked to Law Reporters/Journals? | : | Yes |
| 3. | Whether His Lordship wishes to see the fair copy of the Judgment? | : | Yes |

**N. TUKARAMJI, J**

*** THE HON'BLE SRI JUSTICE N. TUKARAMJI**

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**% 01.05.2026**

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N.Sridhar, S/o. Ramakrishna Rao, Age: 61 years, Occu: Business, R/o. Module 19, Mount View Enclave, Road No.12, Banjara Hills, Hyderabad. Presently at PNT Colony, Ashok Nagar, Hyderabad.

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AND

1. State of Telangana, Represented by its Public Prosecutor, High Court for the State of Telangana, Hyderabad.
2. Yericherla Sundara Rao, S/o. Late Yericherla Daniel, Age: 56 years, Occu: Enforcement Officer, R/o. 3-4-763, Barkahpura Hyderabad.

… Respondents.

! Counsel for the petitioner : Mr. S.Ravi, learned Senior Counsel, on behalf of Mr. Ch. Satya Sadhan, learned counsel for the petitioner.

^Counsel for respondents : Mr. M.Vivekananda Reddy, learned Assistant Public Prosecutor, appearing for respondent No.1.

Mr. M.P. Kashyap, learned Standing Counsel for the Employees' Provident Fund Organisation (EPFO), appearing for respondent No.2.

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? Cases referred

*State of Haryana v. Bhajan Lal*, AIR 1992 SC 604;

*Pepsi Foods Ltd. v. Special Judicial Magistrate*, AIR 1998 SC 128;

*Rajiv Thapar v. Madan Lal Kapoor*, AIR 2013 SC 1944.

**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.

**N.TUKARAMJI, J**

Date: 01.05.2026
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