APHC010520832023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3604]
(Special Original Jurisdiction)

THURSDAY, THE 10th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 8005/2023

Between:

1. CHANDRAIAHGARI MADUSUDHAN REDDY, S/O LATE C. RAMACHANDRA REDDY AGED 32 YEARS, OCC. AGRICULTURE RESIDING AT CK PALLY VILLAGE AND MANDAL, NOW RESIDING AT THOPUDURTHY VILLAGE, ATMAKURU MANDAL, ANANTAPURAMU DISTRICT.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS SUB-DIVISIONAL POLICE OFFICER, THROUGH THE PUBLIC PROSECUTOR HIGH COURT OF ANDHRA PRADESH, AMARAVATI.
2. KONDREDDY VENNELA, D/O K. NARAYANA REDDY, AGED 21 YEARS, OCC. HOUSEWIFE, RESIDING AT THOPUDURTHY VILLAGE, ATMAKURU MANDAL, AN4NTAPUARMU DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Courtmay be pleased to quash the order dated 19.09.2023 made in CrI.M.P No. 579 of 2023 in S.0 No. 52 of 2021 passed by the Honourable Special Judge for the Trial of Offences Under Pocso Act Cases, Anantapuramu and to pass such

IA NO: 1 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the

High Court may be pleased may be pleased to stay all further proceedings in S.C. No. 52 of 2021 on the file of the Honourable Special Judge for the Trial of Offences Under Pocso Act Cases, Anantapuramu, pending disposal of the above Criminal Petition and to pass such

Counsel for the Petitioner/accused:

1. SESHADRI GOALLA

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)
2. KOTHAPALLI AISHWARYA CHOWDARY

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No: 8005 OF 2023

ORDER:

This criminal petition is filed by the petitioner under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C') against the order dated 19.09.2023 passed in Criminal Miscellaneous Petition No.579 of 2023 in S.C.No.52 of 2021 by the Special Court Designated For Speedy Trial Of Offences under the Protection of Children From Sexual Offences (POCSO) Act, 2012 (hereinafter referred to as 'POCSO Act').

2. As seen from the petition, petitioner/accused married victim/PW1, their marriage is registered before the Sub-Registrar, Ananthapuramu and out of their lawful wedlock, PW1 begot a male child and further, their marriage was solemnized under the supervision of father of PW1 as well as relatives, and inadvertently, they have not filed marriage certificate and birth certificate of their male child when the victim was examined as PW1.

3. Refuting the averments made in the petition, respondent/state filed counter contending that as per the provisions of Section 33 (5) of POCSO Act, the Special Court shall ensure that the child shall not be called repeatedly and the petitioner/accused can adduce defence evidence.

4. After hearing both sides and at the culmination of enquiry, the learned trial court dismissed the petition assigning reasons that both are subsequent documents and they are no way relevant to the case. Feeling aggrieved by the said order, present criminal petition is preferred by the petitioner/accused.

5. As seen from the grounds of criminal petition, the order of the trial court is erroneous, contrary to law and weight of evidence, trial court ought to have allowed the petition on the ground that the petitioner/accused got married

PW1, Section 33(5) shall not apply to the facts of the case at hand, and with other formal grounds, prayed to allow the petition.

6. Heard Sri Goalla Seshadri, learned counsel for the petitioner and learned Assistant Public Prosecutor appearing for the respondent No.1.

7. On hearing both sides and upon perusing the material placed on record including the impugned order of the trial court, the point that would arise for consideration is thus:

> ***"Whether the order passed by the learned Special Judge for Trial of Offences under POCSO Act Cases, Ananthapuramu dated 19.09.2023 is sustained in facts and law?"***

8. Point:

a). As seen from the record, basing on the report of PW1, a case in Crime No.188 of 2020 is registered of the offence under Sections 366A, 376, 506 IPC and Section 9 of POCSO Act and after completion of investigation, police filed charge sheet of the same offences and the same is registered as S.C.No.52 of 2021 and after examination of PW1, petitioner/accused filed the instant petition to recall the evidence of victim/PW1 so as to mark Marriage Certificate and Birth Certificate.

b). Deposition of victim/PW1 reveals that she married accused and their marriage is registered before the Sub-Registrar's office, Ananthapuramu on 02.09.2021 and since the victim/PW1 did not support the case of prosecution, learned Public Prosecutor cross examined the victim and she denied suggestions posed by the learned Public Prosecutor.

c). As per the version of the learned counsel for the petitioner, after attaining majority, victim/PW1 married the petitioner/accused with the consent of her parents and the same is registered and as such, marriage certificate and birth certificate of their son are relevant documents and so as to mark the said documents, he filed the instant petition to recall the evidence of PW1.

d). Section 311 Cr.P.C provides that any court may, at any stage of any inquiry, trial or other proceedings under Cr.P.C, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall or re-examine any person already examined and the court shall summon and examine or recall or re-examine any such person “if his evidence appears to it to be essential to the just decision of the case” and the true test, therefore, is whether it appears to the court that the evidence of such person who is sought to be recalled is essential to the just decision of the case.

e). So, power conferred under Section 311 Cr.P.C must therefore, be invoked by the court only in order to meet the ends of justice, for strong and valid reasons, and the same must be exercised with great caution and circumspection. Further, the language under Section 311 Cr.P.C clearly expressed in the widest possible terms, and do not limit the discretion of the court in any way and further, there is thus no escape if the fresh evidence to be obtained is essential to the just decision of the case. Ultimately, court has to see the determinative factor should therefore be, whether the summoning/recalling of the said witness is in fact, essential to the just decision of the case.

f). In the present case, since both the victim/PW1 and the petitioner/accused married and victim begot a male child out of their lawful wedlock, petitioner/accused intend to confront the said documents in the evidence of PW1 so as to prove his defence and for better adjudication.

g). In the given facts and circumstance and to meet ends of justice, this court is of the considered view that the order passed by the learned trial court is liable to be set aside.

9. **In the result**, this Criminal Petition is allowed, by setting aside the order dated 19.09.2023 in Criminal Miscellaneous Petition No.579 of 2023 in S.C.No.52 of 2021 passed by the Special Court, Designated For Speedy Trial Of Offences Under the Protection of Children From Sexual Offences (POCSO) Act, 2012.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

10.09.2026

Vns