APHC010597092009

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3560]**
(Special Original Jurisdiction)

TUESDAY, THE 7th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 746/2009

Between:

1. S. GANGADHARAM, S/O LATE CHINNABBA, R/O VADDIMITTA VILLAGE, RENIGUNTA MANDAL, CHITTOOR DIST.

...PETITIONER

AND

1. THE STATE OF A P, Rep. by the Public Prosecutor, High Court of A.P., Hyderabad.

...RESPONDENT

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the CriminalRevisionCase, the High Court may be pleased toto present this memorandum of Crl.R.C., aggrieved by the Judgment dated 29.04.09 passed in Crl.A.No.49 of 2007 on the file of the Court of the III Addl. Sessions Judge, Tirupati, in confirming the Judgment dated 09.03.07 passed in C.C.No.26 of 2003 on the file of the Court of the Addl. Junior Civil Judge, Srikalahasthi.

IA NO: 1 OF 2009(CRLRCMP 1026 OF 2009

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 the Judgment dated 29.04.09 passed in Crl.A.No.49 of 2007 on the file of the Court of the III Addl. Sessions Judge, Tirupati, in confirming the Judgment dated 09.03.07 passed in C.C.No.26 of 2003 on the file of the Court of the Addl. Junior Civil Judge, Srikalahasthi, by releasing the petitioner on bail, pending disposal of the Crl.R.C.

Counsel for the Petitioner:

1. J UGRANARASIMHA

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following Order:

The instant Criminal Revision Case has been preferred against the judgment, dated 29.04.2009, passed in Criminal Appeal No.49 of 2007 by the learned III Additional Sessions Judge, Tirupati, whereby the learned Appellate Court confirmed the judgment dated 09.03.2007 passed in C.C.No.26 of 2003 by the learned Additional Junior Civil Judge, Srikalahasti.

2. **The brief facts of the case:**

The daughter of P.W.1 was suffering from a prolonged illness. P.Ws.1, 4 & 8 approached accused with a belief that he would cure ill-health of their relatives. As per the instructions of the accused, they purchased a Kalasam (Vessel) to perform puja in his house filling with cash and gold. Thereafter, the Kalasam was buried in ground. They performed the Kalasam puja and was instructed to watch the Kalasam for a period of 10 days and on the 11th day, the accused would come and remove the Kalasam, by then, the ill-health of the relatives of P.Ws.1, 4 & 8 would be cured.

On the basis of such promise, P.Ws.1, 4 & 8 performed Kalasam puja, but after 10 days while they called the accused to dig out the Kalasam (Vessel), on that day, accused did not come and after digging out the Kalasam, it appears that no cash and gold ornaments were found inside the Kalasam. Hence, P.W.1 has lodged a report to the Police, on 02.09.2002. In C.C. charges, Sections 420 & 406 of I.P.C., were framed against the accused person. During Trial, 13 witnesses were examined on behalf of the

prosecution, several documents were exhibited and marked as Exs.P1 to P9. Material objects like Kalasam of P.Ws.1 & 4 with puja articles were marked as material exhibits.

3. The learned Trial Court after conclusion of Trial, found that the petitioner to be guilty for an offence punishable under Section 420 of I.P.C. Though the accused was not found guilty for the offence punishable under Section 406 of I.P.C., the learned Trial Court punished the accused with a sentence to undergo Simple Imprisonment for one year with a fine of Rs.5000/-. The said order of conviction was dealt by the learned Appellate Court in Criminal Appeal, wherein the learned Appellate Court has passed the impugned order thereby the learned Appellate Court dismissed the Appeal by confirming the order of conviction. Hence, the instant Criminal Revision.

4. **Submissions of the petitioner/accused:**

The learned counsel for the petitioner submits that the impugned order of conviction and the sentence passed by the learned Trial Court affirmed by the learned Appellate Court suffers illegality. He further submits that the learned Appellate Court as well as the learned Trial Court failed to appreciate the fact that the report to the police was lodged by P.W.1 after the delay of eight (08) months. There is no explanation for the prosecution to substantiate the long delay. However, the learned Trial Court as well as the learned Appellate Court though dealt with the said issue regarding the delay in

alleging the F.I.R. but have not been properly decided. Thus, the order of conviction of sentence is bad in law.

5. **Submission of the State:**

The learned Assistant Public Prosecutor appearing for the respondent submits that delay in alleging F.I.R. was properly explained by prosecution and decided by learned Trial Court as well as learned Appellate Court. It is the case of the prosecution that there were some mediations to return the amount in the villages. Initially, though petitioner intends to return the same amount but ultimately it was not returned. Consequently, there is delay of eight (08) months in lodging F.I.R.. He further submits that offence has sufficiently proved in this case by producing sufficient materials before the learned Trial Court. Hence, it cannot be said that the delay in alleging F.I.R. is fatal to the case of the prosecution. He also submits that the evidence on record is sufficient to justify that the charge against the accused person and has sufficiently proved beyond all reasonable doubts. Hence, the ground of filing the Criminal Revision is not justified and there is no merit to entertain.

6. **Observation of the Court:**

A single point is involved to decide the instant Criminal Revision. In the present facts and circumstances, it is the admitted fact that P.W.1 has reported to the Police on 02.09.2002 i.e., with a delay of about eight (08) months. The learned counsel for the petitioner had submitted that the delay in lodging the F.I.R. has not properly explained. Hence, it is fatal for prosecution

cases and therefore, the conviction is not maintainable. In paragraph – 13 of the impugned judgment passed by the learned Appellate Court, it appears that the learned Appellate Court is of the view that there is a mediation between the accused and the complainant and there is a justifiable delay in alleging the F.I.R. The learned Appellate Court is of the opinion that the conduction of mediation between the parties was not denied by the defense side. Accordingly, the delay in alleging F.I.R. is not fatal for the prosecution case.

It is the case of trite law that a report of cognizable offence has to be reported to the police promptly, soon after the incidents. Section 154 of Cr.P.C. stipulates that a report when lodged to police station, police must record it in writing and handover a copy of the same to the complainant. The police shall proceed further to place the report of cognizable offence before the learned Magistrate under Section 157 of Cr.P.C.. The learned counsel for the petitioner submits that the condition of initiation of criminal case under Sections 154 & 157 of Cr.P.C. has not been properly complied with in this case.

In each and every criminal case, there exists a specific criteria and in this particular case, allegation against the petitioner is for commission of cheating to P.Ws.1, 4 & 8 and that the factum of cheating demonstrate petitioner designed himself as sorcerer cheated P.Ws. by performance of Kalasam puja and digging the Kalasam has sufficiently proved. Let me understand that whether delay in alleging the F.I.R. is otherwise allowed the

prosecution or its witnesses an opportunity to falsely implicate the petitioner in this case. There is no evidence of record to show that the petitioner never performed the said puja in the houses of P.Ws.1, 4 & 8. The evidence of mediators as well as Sarpanch of the Village, who were present at the time of digging out the Kalasam from the houses of P.Ws.1, 4 & 8, successfully proved that the accused had actually performed the said ritual. There are no materials on record to show that the witnesses have spoken falsely or the delay in alleging F.I.R. has created or illegally strengthened the preparedness of other witness of prosecution to say false. The delay in alleging F.I.R. can only be fatal to the prosecution cases, if it is proved that by such delay, the prosecution might have created some evidence by which they have framed the petitioner on that case. In this particular case, there exists sufficient evidences and they are proved the guilty of the accused; further the evidences are very much corroborative in nature. In my view, the point raised by the learned counsel for the petitioner regarding the falsity of prosecution case due to alleging of F.I.R. for eight (08) months is not fatal for the prosecution case. The explanation as narrated by the learned Appellate Court in paragraph – 13 appears to be not improper or illegal so that the conviction can be set aside.

7. Accordingly, this instant Criminal Revision is hereby dismissed having devoid of merit, order of conviction maintained. The petitioner is directed to appear before the learned Trial Court to serve out the remaining part of the sentence within eight (08) weeks from the date of receipt of this order, failing

which, the learned Trial Court shall issue warrant of arrest against petitioner to comply the order of punishment.

8. Inform the learned Trial Court accordingly.

9. Accordingly, this Criminal Revision Case is disposed of.

As a sequel, interlocutory applications pending, if any, shall stand closed.

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SUBHENDU SAMANTA, J

Date:07.07.2026
KPV

163

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE No:746 of 2009

07.07.2026

KPV