Date of reserved for orders : 31-08-2026
Date of pronouncement : 30-10-2026
Date of uploading : 30-10-2026

APHC010024392023

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

FRIDAY, THE 30th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 387/2023

Between:

1. ADELLA KRISHNA DURGA SIVA KUMAR, S/O.RAMESH CHANDRA BABU, HINDU, AGED ABOUT 48 YRS, OCC.EMPLOYEE, R/O.D.NO.1-4/7-541, BEERUVULA COMPANY, KAMAKOTI NAGAR, BHAVANIPURAM, VIJAYAWADA-12.

2. M.J.PRAKASH,, S/O. NAGESWARAO, HINDU, AGED ABOUT 46 YEARS, R/O. D.NO.48-7-6, OPP ESI HOSPITAL GATE, GUNDADAL,VIJAYAWADA.

3. S.A.VARA PRASAD BABU, S/O.PARAMESWARARAO, AGED ABOUT 40 YRS, R/O. D.NO.1-4-28/31, RTC WORKSHOP ROAD, BHAVANIPURAM, VIJAYAWADA-12.

4. SMT.SOPPARA SUSEELA, W/O.GOPALARAO HINDU, AGED ABOUT 46 YRS,R/O.D.NO.3-1-178, KABELA ROAD, VIDHYADARAPURAM,VIJAYAWADA-12.

5. RUDRARAPU LEELA PRASAD, , S/O.RAMBABU HINDU, AGED ABOUT 36 YEARS, R/O.VIDHYADARAPURAM, VIJAYAWADA-12, KRISHNA DISTRICT.

...PETITIONER/ACCUSED(S)

AND

1. THE STATION HOUSE OFFICER, BHAVANIPURAM POLICE STATION, VIJAYAWADA, KRISHNA DISTRICT, REP. BY ITS PUBLIC PROSECUTOR AT HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

2. DODDA VENKATA SATYANARAYANA VARA PRASAD, S/O.LATE DODDA

RANGARAO, HINDU, AGED ABOUT 64 YRS, R/O.D.NO.23-9-21, DODDA VARI STREET, R AGRAHARAM, GUNTUR-522003, GUNTUR 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 Court pleased to call for records in connection with the case in Cr.No.29 of 2023 on the file of the S.H.O. Bhavanipuram P.S., Vijayawada, which was registered for the alleged offences under sections 404,420,453 r/w 34 of IPC and to quash the same against the petitioners herein as it is illegal, arbitrary, unjust and abuse of process of law and the allegations do not attract the ingredients of the alleged offences and to pass

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 to dispense with the filing of the certified copies of the complaint and FIR in Cr.No.29 of 2023 on the file of the SHO, Bhavanipuram P.S., Vijayawada in the interest of justice and pass

IA NO: 2 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 to grant stay of all further proceedings in connection with the case in Cr.No. 29 of 2023 on the file of the S.H.O. Bhavanipuram P.S., Vijayawada, which was registered for the alleged offences under sections 404,420,453 r/w 34 of IPC in the interest of justice and pass

Counsel for the Petitioner/accused(S):

1. G L NAGESWAR RAO

Counsel for the Respondent/complainant(S):

1. CHALLA AJAY KUMAR
2. PUBLIC PROSECUTOR (AP)

The Court made the following:

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No.387 OF 2023

ORDER:

This Criminal Petition is filed by the petitioners/accused Nos.1 to 5, to quash the proceedings in Crime No.29 of 2023 of Bhavanipuram Police Station, Vijayawada, for the offences punishable under Sections 404, 420 and 453 read with Section 34 of the Indian Penal Code, 1860.

2. As per the version of petitioners, the dispute is essentially civil in nature, the criminal law has been set in motion to exert pressure in the property dispute, the controversy arises out of the alleged agreement of sale and the parties' competing claims concerning the property. Further, petitioner No.1/accused No.1 instituted O.S. No.117 of 2022 seeking specific performance of agreement and the respondent No.2 also filed O.S. No.5801 of 2022 against accused No.1 seeking eviction, the parties are already pursuing civil remedies and the continuation of criminal proceedings would amount to an abuse of process.

3. The allegations in the complaint, in brief, are that the brother of respondent No.2 i.e., Dodda Durga Phani Bhushan was the owner of certain immovable property at Vijayawada and that Accused No.1 was a tenant in a portion of that property. The complainant alleges that his brother died on 22.04.2021 and that, after his death, Accused No.1 removed valuables, documents and other articles from the property and relied upon an alleged agreement of sale said to have been executed by the deceased. It is further alleged that Accused Nos.2 and 3 were shown as witnesses to the agreement and Accused Nos.4 and 5 supported proceedings connected with the civil litigation. The complainant alleges that the accused acted in concert and caused wrongful loss to him and unlawful gain to themselves.

4. Heard Sri G.L.Nageswar Rao, learned counsel for the petitioners and Sri Challa Ajay Kumar, learned counsel for respondent No.2 as well as

Smt.K.Priyanka Lakshmi, learned Assistant Public prosecutor for respondent No.1 State. Perused the material available on record.

5. Learned counsel for the petitioners submits that the suit filed by him and the respondent No.2 are dismissed and the petitioner No.1 preferred A.S. No.209 of 2025 and the appeal is pending on the file of the Court of the V Additional District Judge, Vijayawada, in view of the civil disputes, criminal prosecution is not maintainable, only to give pressure to the petitioner, this complaint is filed and reliance is placed on the judgment of the Hon'ble Supreme Court in ***Rajeshbhai Muljibhai Patel and Others v. State of Gujarat and Another[1].***

6. Per contra, learned counsel for respondent No.2 submits that the complaint contains specific allegations of removal of valuables and documents and after death of the original owner, petitioners created the used disputed agreement of sale, filed suit and the same is dismissed. Further, all the allegations make out a prima facie case and that the civil nature of some aspects of the dispute does not, by itself, bar criminal proceedings, the allegations concerning entry into and acts committed in the property attract the relevant ingredients of the house-trespass and that this is not the stage to test the defence of the petitioners or decide the genuineness of the disputed documents.

7. The point for consideration is whether the allegations and material placed before this Court justify exercise of the inherent jurisdiction to quash the criminal proceedings at the threshold.

8. The settled principle is that a dispute having a civil element does not automatically exclude criminal liability. The same set of facts may, in an appropriate case, give rise to civil remedies as well as criminal consequences. Conversely, a criminal complaint cannot be permitted to be used merely to settle scores or to pressurize a party in a civil dispute. The Court must therefore examine the substance of the allegations and determine whether, if they are

[1] (2020) 3 SCC 794

taken at face value, they disclose the essential ingredients of an offence or whether the proceedings are manifestly an abuse of process.

9. At the stage of considering a petition for quashing, the Court does not ordinarily conduct a detailed examination of the evidence, decide disputed questions of fact or determine whether the prosecution will ultimately succeed. The Court must avoid a mini-trial. Where the complaint contains allegations which require investigation, those allegations cannot be rejected as inherently improbable on the face of the record, and the disputed defence of the accused is ordinarily not a sufficient ground to terminate the proceedings at the threshold.

10. The dismissal of O.S. No.117 of 2022 is a relevant circumstance, but it does not, by itself, conclusively establish that the alleged agreement of sale was fabricated or that every allegation in the criminal complaint is false. The reasons for dismissal and the precise findings recorded by the civil Court must be read in their context. The appeal in A.S. No.209 of 2025 is pending, and the correctness of the judgment in O.S. No.117 of 2022 is therefore subject to appellate scrutiny. This Court should not, in these proceedings, anticipate the result of that appeal or express any opinion on the merits of the civil dispute.

11. Likewise, the dismissal of O.S. No.5801 of 2022, stated to have been filed by the complainant for eviction, does not by itself determine whether valuables or documents were removed after the death of the complainant's brother, or whether the accused acted with the alleged dishonest intention. The relief sought and issues decided in that suit may differ from the questions arising in the criminal investigation. Unless the findings in the civil judgment directly and conclusively resolve the very allegations forming the basis of the criminal case, the dismissal of the suit alone cannot be treated as sufficient to quash the FIR.

12. In ***Rajeshbhai Muljibhai Patel and Others (supra)*** having considered the particular circumstances of that case, including the fact that the criminal

accusation of forgery was based on an expert opinion concerning disputed receipts whose genuineness was also in issue in a pending civil suit, the Hon'ble Supreme Court held that continuation of the FIR would amount to an abuse of process. The decision does not lay down an inflexible rule that criminal proceedings must be quashed whenever a civil suit concerning the same transaction is pending or has been decided. Its application depends on the nature of the allegations, the material relied upon and the extent to which the criminal case is founded solely on an issue already requiring determination in the civil proceedings.

13. In the present case at hand, the complaint is not confined to a dispute over the enforceability of the alleged agreement of sale. It also alleges that, after death of the complainant's brother, accused No.1 removed valuables, documents and other articles from the property and that the remaining accused knowingly assisted or acted in concert with him. Whether those allegations are true, whether the disputed agreement is genuine, what articles were present in the property, and whether the accused acted dishonestly or with the alleged common intention are questions that may require collection and assessment of evidence. It would be premature to determine those matters conclusively in a petition for quashing.

14. The contention of respondent No.2 that the allegations also attract Section 450 IPC must be considered in accordance with the precise statutory ingredients of that provision and the facts alleged. Section 450 concerns house-trespass committed in order to commit an offence punishable with imprisonment for life; the mere assertion that the provision applies is not sufficient in the absence of allegations capable of satisfying those ingredients. In any event, the FIR referred to in the record invokes Sections 404, 420 and 453 read with Section 34 IPC, the investigating agency and the competent Court must proceed on the basis of the

applicable law and the material collected, and no finding on the applicability of any additional provision is necessary for deciding the present petition.

15. The petitioners' contention that the complaint was lodged with an oblique motive, that the allegations are contradictory, and that the prosecution will not be able to establish the offences are matters which cannot be accepted merely on the basis of assertions in the quash petition. The investigation must be fair and impartial, and the petitioners will be entitled to raise all legally permissible defences at the appropriate stage. Nothing stated in this order shall be understood as an opinion on the truth of the allegations or the guilt of any petitioner.

16. In ***M/s. Neeharika infrastructure Pvt.Ltd v.State of Maharashtra[2],*** it was held by the Hon'ble Apex court, investigation is the statutory function of the police and the courts should ordinarily not interfere with the investigation of cognizable offences, the FIR need not contain every detail of the alleged offence, the investigating agency must generally be permitted to complete its investigation. Further, the power under Section 482 Cr.P.C. must be exercised sparingly, with caution and circumspection, to prevent abuse of the process of law or to secure the ends of justice, and if the allegations in the FIR, taken at face value, do not disclose the commission of any offence, the Court may quash the proceedings and at the same time, mini-trial shall not be conducted at the stage of quash.

17. In ***Mahmood Ali v. State of Uttar Pradesh[3]***, the Hon'ble Supreme Court reiterated that, while considering a petition for quashing, the Court may examine the attending circumstances emerging from the record and is not required to confine itself mechanically to the recitals in the First Information Report alone.

---

[2] (2021) 19 SCC 401
[3] 2023 INSC 681

18. Further, the principles laid down in ***State of Haryana and others v. Bhajan Lal and others***[4] identify the recognised categories in which the inherent power may be exercised. These include cases where the allegations, even if taken at face value, do not constitute an offence; where the uncontroverted allegations and the material collected do not disclose the commission of an offence; or where continuation of the proceedings would result in an abuse of the process of the Court.

19. The record reveals that the allegations in the complaint, even if taken at face value and accepted in their entirety, prima facie disclose a case against the petitioner along with the other accused. It is pertinent to note here that on 12.01.2023, the instant crime is registered and on 23.01.2023, the petitioners obtained stay while the investigation was at nascent stage. Since the petitioners obtained stay of investigation, the investigating officer could not proceed further. Had really the contentions of the petitioners are true, truth would definitely come out and the investigating officer would definitely consider the material before filing final report.

20. Admittedly, the instant crime is registered on the basis of private complaint forwarded by the learned magistrate under Section 156(3) of Cr.P.C. In this regard, in ***Priyanka Srivastava v. State of Uttar Pradesh***[5], Hon'ble Supreme Court held that the power to direct investigation under Section 156(3) Cr.P.C cannot be exercised mechanically or as a matter of routine and the magistrate is required to apply judicial mind to the allegations and ensure compliance with the procedural safeguards laid down therein, including the requirement of a duly sworn affidavit and disclosure of the prior steps taken under Sections 154(1) and 154(3) Cr.P.C, and the object of these safeguards is to prevent the abuse of criminal process through frivolous or vexatious complaints and to ensure that the

[4] 1992 Supp (1) SCC 335
[5] (2015) 6 SCC 287,

extraordinary intervention of the Magistrate is invoked responsibly. Except arguing that the learned magistrate has not followed the said procedure before forwarding the complaint, the petitioner has not produced any material.

21. So far as simultaneous proceeding of civil and criminal, in ***Pratibha Rani V. Suraj Kumar and others***[6]***,*** the Hon'ble Supreme Court held at para No.23 is as follows:

> *"23.There are a large number of cases where criminal law and civil law can run side by side. The two remedies are not mutually exclusive but clearly coextensive and essentially differ in their content and consequence. The object of the criminal law is to punish an offender who commits an offence against a person, property of the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect the civil remedies at all for suing the wrong deer in cases like arson, accidents, etc. It is an anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and import*".

22. Having regard to the nature of the allegations, this Court is not satisfied that the proceedings are liable to be quashed at this stage merely because civil proceedings concerning the property have also been instituted and decided. The petitioners failed to show that the complaint taken as a whole is so inherently improbable or legally untenable that continuation of the investigation would necessarily amount to an abuse of process. The competing versions and disputed questions are better left to be examined through the process prescribed by law.

23. ***In the result***, this criminal petition is dismissed. The investigation shall proceed in accordance with law, uninfluenced by any of the observations made herein and the observations in this order are confined to the question of quashing and shall not affect the pending A.S. No.209 of 2025 or the adjudication of any issue before the civil Court.

---

[6]MANU/SC/0090/1985

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

SUNITHA GANDHAM, J

Date:30.10.2026
knl

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No. 387 OF 2023

Date: 10.2026

knl