-APHC010030502026

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

FRIDAY, THE 6th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 663/2026

Between:

1. TANMAY BHOWMIK, S/O. SRI BIBEKANANDA BHOWMIK HINDU, AGED ABOUT 51 YEARS, OCC BUSINESS R/O. NO. 18, BLOCK 16, NANDI GARDEN PHASE 2. JP NAGAR 9TH PHASE. BENGALURU 560062. MOBILE- 8217083718 EMAIL BHOWMIK.TANMAY@GMAIL.COM

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC PROSECUTOR SHO SURYARAOPET POLICE STATION, SURYARAOPET. BUCKINGHAMPETA, VIJAYAWADA - 520002. ANDHRA PRADESH. (RESPONDENT)
2. DR GARLAPATI KRISHNA KANTH, MD, LEUK TECHNOLOLOGIES PVT LTD HINDU, AGED ABOUT 40 YEARS, OCC BUSINESS AND DOCTOR R/O. SRI DATTA SUPER SPECIALITY HOSPITAL. 12-5-11, PRAKASH NAGAR. NARASARAOPET. GUNTUR -522601. MOBILE- 9885097036

...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 a) To set aside the impugned order dated 22 October 2025 passed in CrlMP.No.298 of 2025 in CC No. 291 of 2025 which rejected the petitioner's application under Section 91 CrPC b) Consequently, allow the petition in Crl MP No. 298 of 2025 filed U/S 91 of CrPC

in CC No. 291 of 2025 by directing the Learned Trial court to cause production of documents sought to be produced expeditiously, before recording the material witnesses, in the interest of trust, fairness and justice. c) Stay all further proceedings in C.C. No.291 of 2025 on the file of the Court of the Hon'ble I Additional Judicial Magistrate of First Class, Vijayawada, pending disposal of this Criminal Petition. d) Pass

IA NO: 1 OF 2026

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: a) Stay all further proceedings in C.C. No.291 of 2025 on the file of the Court of the Hon'ble I Additional Judicial Magistrate of First Class, Vijayawada, pending disposal of the accompanying Criminal Petition, and b) Pass

Counsel for the Petitioner/accused:

1. PARTY IN PERSON

Counsel for the Respondent/complainant(S):

1. P VIVEK
2. PUBLIC PROSECUTOR

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No.663 OF 2026

ORDER:

This Criminal Petition is filed by the petitioner/Accused No.1 to set aside the order dated 22.10.2025 passed in Crl.M.P.No.298 of 2025 in C.C.No.291 of 2025 on the file of the learned I Additional Junior Civil Judge-cum-I Additional Metropolitan Magistrate, Vijayawada, whereby the application filed by the petitioner under Section 91 of the Code of Criminal Procedure, 1973 (for short, "the Code") was dismissed.

2. The case of the petitioner, in brief, is that the trial Court committed an error in holding that an accused has no locus to seek production of documents under Section 91 of the Code, the provision empowers the Court to summon any document or thing whose production is necessary or desirable for an inquiry or trial, the application is not filed seeking unrestricted access to the case diary under Section 172 of the Code. Further, the documents are necessary to challenge the prosecution case and to ensure a fair trial guaranteed under Article 21 of the Constitution of India, the charge sheet rests on the statements of three witnesses, who are employees of the complainant and are therefore interested witnesses.

3. Heard Sri Tanmay Bhowmik, party-in-person and Sri P.Vivek, learned counsel for respondent No.2, and Smt. K. Priyanka Lakshmi, learned Assistant Public Prosecutor. Perused the material available on record. Petitioner relied upon the judgments in ***Nitya Dharmananda v.Gopal Sheelum Reddy***[1], ***Mukund Lal v. Union of India***[2], ***Pepsi Foods Ltd. v. Special Judicial Magistrate***[3] and ***Union of India v. Prafulla Kumar Samal***[4].

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[1] (2018) 2 SCC 93
[2] (1989) SCC Supl (1) 622

4. As seen from the record, basing on the report of respondent No.2, a case in Crime No.175 of 2023 is registered for the offence punishable under Section 420 IPC against the petitioner and after completion of investigation, investigating officer laid charge sheet for the said offence, and the case was taken on file as C.C.No.291 of 2025, and after receiving summons and copies of the prosecution papers, petitioner filed a petition in Crl.M.P.No.298 of 2025 under Section 91 of the Code seeking production of certain documents, including bank statements, certified copies of the case diary, station diaries, statements, surety and bail documents, and CCTV footage. The prosecution opposed the application on the ground that the accused has no right to sought for production of document as per the judgment in ***State of Orissa v. Debendra Nath Padhi***[5]. At the culmination of enquiry, the learned Magistrate dismissed the petition observing that the accused has no right to seek the documents under Section 91 of the Code and feeling aggrieved by the order, the petitioner filed the present Criminal Petition.

5. Section 91 of the Code enables a Court or an officer in charge of a police station to require the production of any document or other thing which is considered necessary or desirable for the purposes of an investigation, inquiry, trial or other proceeding under the Code. The power is intended to secure material which has a real bearing on the proceeding. It is not an unrestricted right to call for every document or record connected, directly or indirectly, with the case. The person seeking production must show, with reasonable particulars, how the document is relevant and why its production is necessary or desirable at that stage.

6. It is settled that an accused does not have an automatic right, at the stage of consideration of charge, to produce defence material and insist that the Court examine it as though it were part of the prosecution record. In ***Debendra Nath***

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[3] (1998) 5 SCC 749
[4] (1979) 3 SCC 4
[5] (2005) 1 SCC 568

Padhi (supra), the Hon'ble Supreme Court held that, while considering the question of framing charge, the Court is to consider the material placed by the prosecution and the accused cannot ordinarily rely upon defence documents at that stage. At the same time, the said principle does not mean that the Court is powerless in every circumstance to call for a document under Section 91 of the Code. In ***Nitya Dharmananda*** (supra), the Hon'ble Supreme Court recognised that, in an appropriate case, where the accused makes out a specific case and the Court is satisfied that a document is necessary or desirable for a just decision, the Court may exercise its power to summon such material. The decision, however, does not confer an unrestricted right on the accused to seek production of documents without establishing their relevance and necessity. The power remains one to be exercised by the Court on the facts of each case.

7. In the present case, the petitioner has sought several categories of documents, including the case diary, station diary, witness statements, bail and surety documents and CCTV footage. The application does not establish with sufficient particulars how each of these documents is necessary or desirable for deciding the issue before the trial Court. A general assertion that the documents would assist the defence or would help to test the credibility of the prosecution witnesses is not, by itself, sufficient to compel their production under Section 91 of the Code.

8. So far as the case diary is concerned, Section 172 of the Code specifically regulates its use. The accused is not entitled to inspect the case diary as a matter of right or to obtain copies of it merely by invoking Section 91 of the Code. The restrictions contained in Section 172 cannot be bypassed by describing the request as one for production of documents under Section 91 of the Code.

9. The petitioner is entitled to receive the copies of the documents which are required to be furnished to him under Section 207 of the Code. If any document

relied upon by the prosecution and forming part of the police report has not been furnished, the petitioner may bring that specific omission to the notice of the trial Court, which shall consider the request in accordance with law. However, the present application is not confined to such a specific grievance. It includes a broad request for different categories of records, without demonstrating the necessity of each document for the purpose for which it is sought.

10. The contention that the three witnesses are employees of the complainant and are interested witnesses relates to the appreciation of their evidence. Their relationship or employment, by itself, does not establish that their statements are false or that the prosecution case is liable to be rejected. The petitioner will have an opportunity, in accordance with law, to test their testimony through cross-examination during trial. The question whether their evidence is reliable, and what weight should be attached to it, cannot be decided in the present petition on the basis of an untested assertion.

11. The judgments in ***Mukund Lal (supra), Pepsi Foods (supra) and Prafulla Kumar Samal*** (supra) relied upon by the petitioner, do not establish that an accused is entitled to obtain all the documents sought in the present application. The power under Section 91 must be exercised in accordance with the statutory restrictions and on a clear showing of necessity or desirability. The petitioner has not made out such a case in respect of the documents sought in the application.

12. The right to a fair trial under Article 21 of the Constitution is fundamental. At the same time, that right has to be protected within the framework of the procedure established by law. Sections 91, 172 and 207 of the Code operate in their respective fields and must be read harmoniously. The petitioner cannot claim unrestricted access to the investigation record in the name of a fair trial. The statutory safeguards, including the right to receive the documents required

under Section 207 and the right to test the prosecution evidence during trial, remain available to him.

13. In these circumstances, this Court finds no sufficient ground to interfere with the order passed by the learned Magistrate. The learned Magistrate was justified in declining the broad request made by the petitioner under Section 91 of the Code. The petitioner has not demonstrated any specific legal or jurisdictional error warranting exercise of the inherent jurisdiction of this Court.

14. **In the result**, this Criminal Petition is dismissed. It is, however, made clear that if any document relied upon by the prosecution and required to be furnished under Section 207 of the Code has not been supplied, the petitioner is at liberty to make an appropriate application before the trial Court, which shall consider the same in accordance with law. The observations made in this order are confined to the request for production of documents under Section 91 of the Code and shall not influence the trial Court while considering the case on its own merits, including the question of charge or the appreciation of evidence.

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

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SUNITHA GANDHAM, J

Date: 06.11.2026
MMK/ knl