APHC010046842021

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

THURSDAY, THE 8th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No. 728 OF 2021

Between:

ARIKATLA RAJESH REDDY @ RAJESH,, S/O. KRISHNA REDDY, AGED 30 YEARS, REDDY BY CASTE, GOVINDANAGAR COLONY, NEAR INDIRA NAGAR, SRIKAKULAM TOWN, PERMANENT ADDRESS.D.NO.3-564/2, VUNDAVALLI CENTER, TADEPALLI MANDAL, GUNTUR DISTRICT.

...PETITIONER/ACCUSED

AND

1. STATE OF ANDHRA PRADESH, THROUGH ITS PUBLIC PROSECUTOR, HIGH COURT AT AMARAVATHI. THROUGH STATION HOUSE OFFICER, II TOWN POLICE STATION, SRIKAKULAM, SRIKAKULAM DISTRICT.
2. N SESHU, HEAD CONSTABLE (1012), II TOWN POLICE STATION, SRIKAKULAM TOWN. R2 IS IMPLEADED AS PER COURT ORDER DATED 09.03.2021 IN I.A.NO.2 OF 2021 IN CRLP.NO.728 OF 2021

...RESPONDENT/COMPLAINANT(S):

Petition under Sections 437, 438, 439 and 482 of the Code of Criminal Procedure, 1973 and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying that, in the circumstances stated in the Memorandum of Grounds of Criminal Petition, this Court may be pleased to quash the proceedings in C.C.No.446 of 2020 on the file of the Judicial First Class Magistrate, Srikakulam, and pass such other order or orders as this Court may deem fit and proper.

IA NO: 1 OF 2021

Petition under Section 482 of the Code of Criminal Procedure, 1973 and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying that, in the circumstances stated in the Memorandum of Grounds of Criminal Petition, this Court may be pleased to stay all further proceedings, including the appearance of the petitioner, in C.C.No.446 of 2020 on the file of the Judicial First Class Magistrate, Srikakulam, pending disposal of the Criminal Petition, and pass such other order or orders as this Court may deem fit and proper.

IA NO: 2 OF 2021

Petition under Section 482 of the Code of Criminal Procedure, 1973 and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying that, in the circumstances stated in the Memorandum of Grounds of Criminal Petition, this Court may be pleased to implead the proposed second respondent as respondent No.2 in Crl.P.No.728 of 2021 as well as in I.A.No.1 of 2021, pending disposal of the Criminal Petition, and pass such other order or orders as this Court may deem fit and proper.

Counsel for the Petitioner/accused:

1. L J VEERA REDDY

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)
2. VIJAYA KUMAR NAIDANA

The Court made the following:

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 728/2021

ORDER:

This Criminal Petition is filed by the petitioner/Accused under Section 482 of the Code of Criminal Procedure, 1973 and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to quash the proceedings against him in C.C.No.446 of 2020 on the file of the Judicial First Class Magistrate, Srikakulam, for the offences punishable under Sections 353 and 188 of the Indian Penal Code (for brevity, 'the I.P.C.').

2. The case of the petitioner is that the report was lodged by Respondent No.2 only for statistical purposes and that the petitioner neither used criminal force against Respondent No.2 nor assaulted him or obstructed him in the discharge of his duties. It is contended that the ingredients of Section 353 of the I.P.C. are not attracted. The petitioner states that he is not a resident of Srikakulam and that he had gone there in connection with his work, being a permanent resident of Undavalli Village. It is further contended that the ingredients of Section 188 of the I.P.C. are also not attracted and that the statutory requirements for taking cognizance of an offence under Section 188 of the I.P.C. have not been complied with. It is therefore contended that continuation of the proceedings, arising out of an incident during the COVID-19 pandemic period, would amount to an abuse of the process of law.

3. Heard Ms. Maria Rani, learned counsel representing Sri L.J. Veera Reddy, learned counsel for the petitioner, Sri Naidana Vijaya Kumar, learned counsel for Respondent No.2, and Smt. K. Priyanka Lakshmi, learned Assistant Public Prosecutor.

4. Perused the petition, complaint and other material available on record, including the judgments relied upon by learned counsel for both sides.

5. Learned counsel for the petitioner contended that there is absolutely no material to proceed against the petitioner and that he has no connection whatsoever with the allegations levelled by the prosecution.

6. Per contra, learned counsel for Respondent No.2 contended that this is not the stage to appreciate the material placed by the prosecution and that the prima facie material on record clearly discloses the commission of the offence punishable under Section 353 of the I.P.C., as the petitioner assaulted Respondent No.2 and obstructed him in the discharge of his duties.

7. As seen from the record, based on the report of Respondent No.2, a case in Cr.No.774 of 2020 was initially registered for the offence punishable under Section 353 of the I.P.C. After completion of investigation, the Investigating Officer filed a charge sheet for the offences punishable under Sections 353 and 188 of the I.P.C., alleging that on 04.05.2020, pursuant to the instructions of LW.9/Deputy Superintendent of Police, Respondent No.2, while discharging his duties at Ramalaxmana Theatre Junction, Srikakulam, stopped the petitioner's vehicle and directed him to produce the vehicle documents. It is alleged that the petitioner used criminal force against Respondent No.2, threw him aside and fled from the scene on his motorcycle bearing No.AP-31-ED-3090.

8. In the report also, it is stated that when Respondent No.2 stopped the petitioner's motorcycle and asked him to produce the documents, the petitioner refused to produce them, threw Respondent No.2 aside and fled from the scene. To attract the ingredients of Section 353 of the I.P.C., the prosecution must establish the use of assault or criminal force against a public servant, with the requisite intention or knowledge contemplated under Sections 349 and 350 of the I.P.C. Mere use of the expression 'threw him', without material particulars showing the manner in which force was intentionally used and the circumstances constituting criminal force, cannot, by itself, establish the necessary ingredients of Section 353 of the I.P.C.

Section 349 of the I.P.C.:

> *"A person is said to use force to another if he causes motion, or change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling."*

Section 350 of the I.P.C.:

> *"Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other."*

9. On a careful consideration of the material on record, there is no material, apart from the bald allegation that the petitioner 'threw' Respondent No.2, to demonstrate that the petitioner intentionally used force against Respondent No.2 in the manner contemplated under Section 350 of the I.P.C., with the intention of causing, or knowledge that it was likely to cause, injury, fear or annoyance. The material also does not disclose the requisite nexus between the alleged act and the obstruction of Respondent No.2 in the discharge of his public duties. The admitted allegation that the petitioner did not produce the vehicle documents, by itself, would not constitute an offence under Section 353 of the I.P.C.

10. It is well settled that, while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, this Court ordinarily proceeds on the basis of

the allegations in the complaint/FIR and the material accompanying it and does not conduct a detailed enquiry into the reliability or genuineness of such allegations. However, where the allegations, even if accepted in their entirety, do not constitute the offence alleged, or where continuation of the criminal proceedings would amount to an abuse of the process of the Court, the inherent jurisdiction can and should be exercised to secure the ends of justice.

11. The principles governing the exercise of such jurisdiction were authoritatively explained by the Hon'ble Supreme Court in State of Haryana and Others v. Bhajan Lal and Others[1]. Among the recognised categories are cases where the allegations, taken at their face value, do not prima facie constitute an offence; where the uncontroverted allegations and the material collected do not disclose the commission of an offence; where the allegations are inherently improbable; where there is an express legal bar to the institution or continuance of the proceedings; and where the criminal proceeding is manifestly attended with mala fides or is instituted with an ulterior motive.

12. Insofar as the offence under Section 188 of the I.P.C. is concerned, Section 195(1)(a) of the Code of Criminal Procedure places an express bar on the Court taking cognizance of an offence punishable under Section 188 of the I.P.C. except upon a complaint in writing of the public servant concerned or of some other public servant who has authorised him or of the public servant to whom he is administratively subordinate. In the present case, the proceedings appear to have been initiated on the basis of a police report/charge sheet. In the absence of a complaint satisfying the statutory requirement under Section 195(1)(a) of the Code of Criminal Procedure, the Magistrate could not have validly taken cognizance of the offence under Section 188 of the I.P.C. Therefore, continuation of the proceedings for the said offence is also legally impermissible.

13. Upon an overall perusal of the material placed by the prosecution, this Court is of the considered view that the allegations and the material on record

do not disclose the essential ingredients of the offences under Sections 353 and 188 of the I.P.C. The allegation regarding the use of criminal force is not supported by sufficient material to constitute the offence under Section 353 of the I.P.C., and the proceedings under Section 188 of the I.P.C. are also vitiated by the statutory bar contained in Section 195(1)(a) of the Code of Criminal Procedure. In these circumstances, continuation of the proceedings in C.C.No.446 of 2020 would amount to an abuse of the process of the Court. The petitioner is, therefore, entitled to the relief sought.

14. **In the result,** the Criminal Petition is allowed, and the proceedings against the petitioner/Accused in C.C.No.446 of 2020 on the file of the Judicial First Class Magistrate, Srikakulam, for the offences punishable under Sections 353 and 188 of the I.P.C, are hereby quashed.

As a sequel thereto, pending miscellaneous petitions, if any, in this Criminal Petition shall stand closed.

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SUNITHA GANDHAM,J

Date: 08.10.2026
SSA/ knl

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THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 728/2021

Date: 08.10.2026
SSA/ knl