APHC010054042023

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

SATURDAY, THE 10th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 1108 of 2023

Between:

1. MALAM BHAGYARAO, S/O VENKATESWARLU AGE 48 YEARS, CHIEF SECREATERY, NATIONAL DALITH BAHUJAN FRONT, R/O. 5/3, ARUNDELPET, GUNTUR - 522002.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, Through SHO, Arundelpet P.S. Guntur Urban, Rep. by its Public Prosecutor, High Court Buildings, Amaravati.

...RESPONDENT/COMPLAINANT

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 may be pleased to quash the criminal proceedings as against Petitioner/Accused No.1 in CC. No. 325 OF 2019 on the file of Special Judicial First Class Magistrate for Railways, Guntur registered for the alleged offences U/Sec, 143, 341, 188 R/w. 34 IPC as they are lacking merits and substance and 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 dispense with filing of the original certified copies of charge sheet in CC. No. 325 OF 2019 on the file of Special Judicial First Class Magistrate for Railways, Guntur registered for the alleged offences U/Sec, 143, 341, 188 R/w. 34 1PC and the FIR in Cr.No.204

of 2016 on the file of Arundelpet Police Station, Guntur for the alleged offences under Section 143, 341, 188 r/w. 34 of Indian Penal Code and pass such

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 stay the proceedings, including appearance of Petitioner/Accused No.1 in CC. No. 325 OF 2019 on the file of Special Judicial First Class Magistrate for Railways, Guntur registered for the alleged offences U/Sec, 143, 341, 188 R/w. 34 IPC and pass such

Counsel for the Petitioner/accused:

1. ARUN SHOWRI G

Counsel for the Respondent/complainant:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HONOURABLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No.1108 of 2023

ORDER:

This Criminal Petition is filed by the petitioner/Accused No.1 under Section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to quash the proceedings against him in C.C. No.325 of 2019 on the file of the Special Judicial First Class Magistrate for Railways, Guntur, for the offences punishable under Sections 143, 341 and 188 read with Section 34 of the Indian Penal Code, 1860 (for short, "IPC").

2. The case of the petitioner, in brief, is that the charge sheet does not contain specific allegations against the petitioner. Section 141 IPC defines an unlawful assembly as an assembly of five or more persons whose common object falls within the categories specified therein. According to the prosecution itself, the petitioner was peacefully staging a dharna to ventilate his grievances. In such circumstances, the petitioner contends that Section 143 IPC is not attracted. It is further contended that neither the complaint nor the charge sheet alleges that the petitioner obstructed any person; rather, he was only staging a peaceful dharna or protest.

3. The petitioner further contends that the prosecution for the offence under Section 188 IPC is not maintainable in view of the bar under Section 195(1)(a) Cr.P.C. The charge sheet does not refer to any order under Sections 30-A or 32 of the Police Act, and it does not specifically set out the order allegedly disobeyed. Section 188 IPC concerns disobedience to an order duly promulgated by a public servant. According to the petitioner, there is no material to sustain the allegations and continuation of the proceedings would amount to an abuse of the process of the Court.

4. Heard Sri G. Arun Showri, learned counsel for the petitioner, and Smt. K. Priyanka Lakshmi, learned Assistant Public Prosecutor, as well as learned counsel appearing for respondent No.2. Perused the petition and the other material available on record.

5. The record shows that, on the basis of a report lodged by a Head Constable, Crime No.204 of 2016 was registered for the offences punishable under Sections 143, 341 and 188 read with Section 34 IPC.

6. Learned counsel for the petitioner submitted that the proceedings against the other accused were quashed by order dated 16.07.2024 in Crl.P. No.10582 of 2022. He further submitted that there is no material against the petitioner and that the prosecution failed to comply with the mandatory requirement under Section 195(1)(a) Cr.P.C. According to him, a report by the Head Constable cannot substitute the written complaint required from the public servant concerned, or from a public servant to whom that officer is administratively subordinate. He also contended that the prosecution had failed to show that five or more persons had assembled with a common object so as to attract Section 143 IPC.

7. The learned Assistant Public Prosecutor and learned counsel for respondent No.2 submitted that the proceedings against the other accused had been quashed by order dated 16.07.2024 in Crl.P. No.10582 of 2022.

8. Section 195(1)(a) Cr.P.C. places a statutory restriction on a Court taking cognizance of the offences specified therein, including an offence punishable under Section 188 IPC, except upon a complaint in writing by the public servant concerned or by another public servant to whom the former is administratively subordinate. The object of this provision is to prevent vexatious prosecution for the specified offences and to ensure that cognizance is taken only in the manner prescribed by law. The requirement is

mandatory. In ***Daulat Ram v. State of Punjab***[1], the Hon'ble Supreme Court recognised the effect of non-compliance with the statutory requirement. The petitioner also relied on ***State of U.P. v. Mata Bhikh***[2], wherein the Hon'ble Supreme Court explained that, where the public servant who promulgated the order does not make the complaint, an administratively superior public servant may do so. The term "subordinate" in this context refers to administrative subordination. Accordingly, the material must disclose a complaint satisfying Section 195(1)(a) Cr.P.C. before cognizance of the offence under Section 188 IPC can be taken.

9. The report of the Head Constable states that, while he was on duty pursuant to instructions to maintain law and order, he received information that some persons were staging a dharna at Lodge Centre, Guntur. He went to the spot and found that the petitioner/Accused No.1 was conducting a dharna to ventilate his grievances. The report refers to an order under Section 30 of the Police Act being in force, but does not furnish details of the persons allegedly participating in the assembly or the specific acts attributed to them. The material placed with the charge sheet does not disclose sufficient particulars to establish the ingredients of an unlawful assembly or wrongful restraint. In the absence of allegations and material showing the requisite common object and the specific obstruction alleged, the offences under Sections 143 and 341 IPC are not made out against the petitioner on the material presently available.

10. So far as the offence under Section 188 IPC is concerned, the report was lodged by the Head Constable. The material placed before this Court does not disclose compliance with the statutory requirement under Section 195(1)(a)(i) Cr.P.C. In the absence of the requisite written complaint by the public servant concerned or an administratively superior public servant, the

[1] 1962 (supp) 2 SCR 812
[2] MANU/SC/0698/1992

statutory bar is attracted. Consequently, the proceedings for the offence under Section 188 IPC cannot be permitted to continue in the present form.

11. The inherent jurisdiction under Section 482 Cr.P.C. is extraordinary and must be exercised sparingly and with due circumspection. However, where the allegations in the FIR, charge sheet and accompanying material, even if accepted at face value and in their entirety, do not constitute the offences alleged, or where continuation of the proceedings is barred by law, this Court may exercise its inherent jurisdiction to prevent abuse of the process of the Court and to secure the ends of justice.

12. In ***State of Haryana v. Bhajan Lal***[3], the Hon'ble Supreme Court illustrated categories of cases in which the inherent jurisdiction of the High Court may appropriately be exercised. These include cases where the allegations, even if taken at face value and accepted in their entirety, do not prima facie constitute an offence or make out a case against the accused. The principles laid down therein are intended to prevent the criminal process from being continued where the foundational legal requirements are absent.

13. In the present case, the material does not disclose sufficient particulars to make out the offences under Sections 143 and 341 IPC against the petitioner. Further, the prosecution for the offence under Section 188 IPC is subject to the mandatory statutory bar under Section 195(1)(a) Cr.P.C., and the record does not disclose compliance with that requirement. These are substantive defects affecting the maintainability of the proceedings for the offences concerned. Therefore, the objections raised by the petitioner have merit.

14. In view of the foregoing discussion, continuation of the criminal proceedings against the petitioner/Accused No.1, on the basis of the material

[3] 1992 Supp (1) scc 335

presently available, would amount to an abuse of the process of the Court. The case falls within the principles laid down by the Hon'ble Supreme Court in Bhajan Lal (supra), warranting exercise of the inherent jurisdiction of this Court.

15. In the result, the Criminal Petition is allowed quashing the proceedings against the petitioner/Accused No.1 in C.C. No.325 of 2019 on the file of the Special Judicial First Class Magistrate for Railways, Guntur, for the offences punishable under Sections 143, 341 and 188 read with Section 34 IPC.

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

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SUNITHA GANDHAM,J

Date: 10.10.2026
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