Date of reserved for orders :08-09-2026
Date of pronouncement : 30-10-2026
Date of uploading : 30-10-2026

APHC010158992023

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: 2427/2023

Between:

1. MARUBAKA ANURADHA, W/O SIVA PRASAD, AGED ABOUT 33 YEARS, R/O D NO.24-81-1/10, HARISH VICTORIOUS, FLAT NO 102 SANTHINAGAR, CHINAGANTAYADA, NEAR SLOKA SCHOOL GAJUWAKA, VISAKHAPATNAM.
2. VIYYAPU TATARAO,, S/O AGED ABOUT 35 YEARS, R/O D.NO. 23-75-12, PYDIMAMBA COLONY, BC ROAD, GAJUWAKA, VISAKHAPATNAM.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, THROUGH THE STATION HOUSE OFFICER, DUVVADA POLICE STATION, VISAKHAPATNAM CITY, REP. BY ITS PUBLIC PROSECUTOR HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI GUNTUR DISTRICT
2. VADLAPUDI RAVI KUMAR, S/O SARWESWARARAO AGED 34 YEARS, R/O D. NO.55-B-33/22, SEETHARMMADHARA, VISAKHAPATNAM.

...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 the records in

C.C.No.680/2021 on the Me of the Court of VIII Additional Chief Metropolitan Magistrate at Gajuwaka, Visalchi3patham and quash the proceedings in that case against the petitioners and 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 grant stay of all further proceedings in C.C.No.680/2021 on the file of the Court of VIII Additional Chief Metropolitan Magistrate at Gajuwaka, Visakhapatnam, pending disposal of the criminal petition 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 pleased to dispense with the filing of the certified copy of the charge sheet in C.C.No.680/2021 on the file of the Court of VIII Additional Chief Metropolitan Magistrate at Gajuwaka, Visakhapatnam for filing the same in the criminal petition and pass

IA NO: 1 OF 2024

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 extend the stay granted on 03-04-2023 in I.A.No.2/2023 in Crl.P.No.2427/2023, which was extended from time to time till 06-08- 2024, until further orders and pass

Counsel for the Petitioner/accused(S):

1. SUREPALLI MADHAVA RAO

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No.2427 OF 2023

ORDER:

This Criminal Petition is filed by the petitioners/ accused Nos.1 and 2 to quash the proceedings against them in C.C. No.680 of 2021 on the file of the learned VIII Additional Chief Metropolitan Magistrate, Gajuwaka, Visakhapatnam, arising out of Crime No.746 of 2020 of Duvvada Police Station, for offences under Sections 447, 427 and 506 read with Section 34 of the Indian Penal Code.

2. Case of the petitioners is, respondent No.2 has no right over the land in an extent of 520 Sq.yds in S.No.32 of Aganampudi Village, the dispute concerns title, possession and the right to use the land and respondent No.2's claim is opposed to the registered documents and the prior transactions relating to the property. Further, the petitioner No.1/ accused No.1 has already instituted a civil suit vide O.S. No.282 of 2020, seeking a decree of perpetual injunction, and the same is pending before the Civil Judge's Court (Junior Division), Gajuwaka. Petitioner/ accused No.1 has relied upon registered documents relating to the property and has also approached the police in connection with the dispute. According to them, the criminal complaint was lodged in the midst of the existing civil dispute and has been used to give a criminal colour to a controversy concerning ownership and possession and the charge sheet does not disclose reliable material to establish actual damage to the property, that no independent eye witness to the alleged acts of damage has been examined, and that the statements referred to in the charge sheet do not establish the essential ingredients of the alleged offences.

3. The case of the prosecution, in brief, is that the respondent No.2/ de facto complainant claims to be the owner and possessor of land in an extent of 520 square yards in Survey No.32 of Aganampudi Village, Visakhapatnam District

vide registered Document No.904 of 2015. The respondent No.2 alleges that on 22.12.2020 and 23.12.2020, the petitioners and persons accompanying them trespassed into the property, damaged the property, removed or altered the writing displayed on a shed, broke the lock of the shed and put up banners or notices asserting a claim over the land. Basing on the report of the respondent No.2, a case in crime No. 746 of 2020 is registered and after investigation, police filed the charge sheet for the aforesaid offences.

4. Heard Sri Surepalli Madhava Rao, learned counsel for the petitioners and Smt.K.Priyanka Lakshmi, learned Assistant Public Prosecutor representing State. Respondent No.2 remained absent. Perused the material available on record.

5. The learned counsel for the petitioners would submit that the allegations, even if taken at face value, arise out of a serious civil dispute which is already before the civil court, the existence of a registered document in favour of the respondent No.2 does not, by itself, resolve the competing claims concerning possession, particularly when the petitioners rely upon their own documents and the civil proceedings are pending. It is further submitted that the investigating agency has not collected material showing the nature or extent of damage allegedly caused, nor has it identified independent witnesses who directly witnessed the alleged trespass or damage. Further, learned counsel for the petitioners rely upon the judgment of the Hon'ble Supreme Court in ***Sardar Ali Khan v. State of Uttar Pradesh***[1].

6. The point for consideration is whether the allegations in the charge sheet and the material collected during investigation, taken at their face value, disclose the essential ingredients of the offences alleged against the petitioners, or whether continuation of the prosecution in the circumstances would amount to an abuse of the process of the Court.

[1] Criminal Appeal No.161 of 2020, decided on 24.01.2020

7. The inherent power under Section 482 Cr.P.C. is to be exercised sparingly and with caution. The High Court does not ordinarily assess the credibility of witnesses, weigh the evidence or conduct a mini-trial at the stage of considering a quash petition. However, the Court is entitled to examine whether the allegations and the material relied upon by the prosecution, even if accepted as they stand, disclose the commission of an offence and justify the continuation of criminal proceedings. In ***State of Haryana v. Bhajan Lal***[2], the Hon'ble Supreme Court recognised that quashing may be appropriate, among other circumstances, where the allegations taken at face value do not constitute an offence or where the criminal proceeding is manifestly attended with mala fides or is an abuse of the process of the Court.

8. In **Sardar Ali Khan** (supra), the Hon'ble Supreme Court quashed criminal proceedings in the context of serious factual disputes concerning property and pending civil litigation. The Court observed, in the circumstances of that case, that permitting criminal proceedings to continue where the central dispute was already before the civil court would amount to an abuse of process. The decision does not lay down that every dispute involving property or a pending civil suit must result in quashing. The nature of the allegations and the existence or absence of material disclosing the ingredients of the alleged criminal offences must still be examined in each case.

9. The offences alleged in the present case require separate consideration. To attract criminal trespass under Section 447 IPC, the prosecution must show entry into or upon property in another's possession, or unlawful remaining there, with the intention specified in Section 441 IPC, including an intention to commit an offence or to intimidate, insult or annoy the person in possession. As per Section 427 IPC, there must be material showing the commission of mischief as defined in Section 425 IPC, including the requisite intention or knowledge and the

[2] 1992 Supp (1) SCC 335

causing of wrongful loss or damage, and for criminal intimidation under Section 506 IPC, the material must disclose a threat of injury of the kind contemplated by Section 503 IPC, made with the requisite intent. The existence of a dispute over title does not automatically exclude these offences.

10. In the present case, the charge sheet itself refers to the registered document of respondent No.2 and the history of earlier transactions through which the parties claim an interest in the property. The petitioners rely upon registered documents and assert that the first petitioner has been pursuing civil remedies in respect of the property. The pending civil suit seeking perpetual injunction is relevant because it demonstrates that the rights of the petitioner No.1 and claims concerning possession are already under adjudication before a competent civil court. The criminal court cannot be used as a substitute forum for deciding title or granting a determination of civil rights.

11. The allegation of trespass and damage cannot be rejected merely because a civil suit is pending, however, it has to be seen that whether the prosecution material discloses a prima facie case of the alleged specific criminal acts. As seen from the charge sheet and material placed before this Court, the alleged damage is not supported by any clear particulars identifying the nature and extent of the damage, the property actually damaged, or material capable of establishing that the damage was caused by the petitioners/ accused Nos.1 and 2 with the intention or knowledge required by Section 425 IPC. The petitioners/ accused No.1 and 2 also point out that no independent eyewitness to the alleged acts of damage has been examined. The absence of an independent eyewitness is not, by itself, conclusive; nevertheless, in the present factual setting, it assumes relevance when considered with the nature of the dispute and the lack of specific supporting material.

12. The statements of witnesses who speak about the title documents, registration or earlier transactions may be relevant to the history of the property,

but such statements do not, without more, establish that the petitioners/ accused Nos.1 and 2 committed criminal trespass, caused mischief or criminally intimidated the respondent No.2 on the dates alleged. The charge sheet must contain material connecting the petitioners/ accused Nos.1 and 2 with the essential ingredients of each offence.

13. The circumstances relied upon by the petitioners, clearly reveals that there is a pre-existing dispute concerning the property, the petitioner/ accused No.1 has instituted civil proceedings seeking protection of possession, both the parties rely upon registered documents and competing claims, and the material identified in the charge sheet does not sufficiently particularise the alleged damage or demonstrate the necessary ingredients of criminal trespass, mischief and criminal intimidation. These circumstances distinguish the present matter from a case in which a clear and independently supported allegation of criminal conduct is disclosed notwithstanding a parallel civil dispute.

14. The principle in **Sardar Ali Khan** (supra) must be applied with care and not as a blanket rule that civil and criminal remedies cannot proceed simultaneously. Where the same underlying property dispute is pending before a civil court, criminal proceedings may nevertheless continue if the allegations independently disclose the ingredients of a criminal offence. In the present case, the combination of the pending civil proceedings, the competing registered documents and the absence of sufficiently specific material supporting the essential ingredients of the alleged offences leads this Court to conclude that continuation of the prosecution against the petitioners/ accused would amount to an abuse of the process of law.

15. For the foregoing reasons, this Court is satisfied that the case falls within the principles recognised in **Bhajan Lal** (supra). The allegations and material placed before this Court do not disclose a sufficiently sustainable prima facie case against the petitioners/ accused for the offences alleged and continuation of

the proceedings would serve no legitimate purpose. The rights of the parties concerning title, possession and entitlement to the property shall remain open for determination by the competent civil court on the evidence and in accordance with law.

16. **In the result,** the Criminal Petition is allowed, quashing the proceedings against the petitioners/ accused Nos.1 and 2 in C.C. No.680 of 2021 on the file of the learned VIII Additional Chief Metropolitan Magistrate, Gajuwaka, Visakhapatnam for the offences under Sections 447, 427 and 506 read with Section 34 of the Indian Penal Code. The observations made in this order are confined to the disposal of this Criminal Petition and shall not influence the civil court in deciding O.S. No.282 of 2020, or any other proceeding concerning the property, on its own merits.

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

SUNITHA GANDHAM, J

Date:30.10.2026
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