APHC010233752023

**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: 4036/2023**

**Between:**

1. N.VIJAYA BHASKARA RAO,, S/O.SYAM BABU. AGED ABOUT 56 YEARS, REVENUE OFFICER. ELURU MUNICIPAL CORPORATION, ELURU. WEST GODAVARI DISTRICT.

**...PETITIONER/ACCUSED**

**AND**

1. STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI, GUNTUR DISTRICT.
2. KANAKA KALINGAPATNAM, W/O. GANAPATHI, AGED ABOUT 31 YEARS, R/O. H.NO.24C-6-16, 1ST ROAD, ELURU, ELURU DISTRICT. RESPONDENT NO.2 IS IMPLEADED AS PER THE COURT ORDER DATED 25.07.2023 IN I.A.NO.3 OF 2023 IN CRL.P.NO.4036 OF 2023.

**...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 quash the criminal proceedings initiated against the petitioner herein in C.C.No.978 of 2022 on the file of Court of Hon'ble Principal Junior Civil Judge cum Judicial Magistrate of First Class at Eluru for the offences under Section 120-B IPC 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 condone the delay of 34 days in re-submitting the CrI.P.SR No.4465/2023 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 stay all further proceedings including appearance of the petitioner in C.C.No. 978 of 2022 on the file of Court of Hon'ble Principal Junior Civil Judge cum Judicial Magistrate of First Class at Eluru City and pass

**IA NO: 3 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 implead the defacto complainant as party respondent No.2 in the above Criminal Petition and pass

**Counsel for the Petitioner/accused:**

1. HEMANTH KUMAR VEMURI

**Counsel for the Respondent/complainant(S):**

1. PUBLIC PROSECUTOR (AP)
2. LEGAL AID
3. CHILUKURI KARTHIK

**The Court made the following:**

**THE HONOURABLE SMT. JUSTICE SUNITHA GANDHAM**

**CRIMINAL PETITION No. 4036 OF 2023**

**ORDER:**

This Criminal Petition is filed by the petitioner/Accused No.8 under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking to quash the proceedings in C.C. No.978 of 2022 on the file of the Principal Judicial First Class Magistrate, Eluru, for the offence punishable under Section 120-B of the Indian Penal Code, 1860 (IPC).

2. The case of the petitioner, in brief, is that, while he was working as a Project Officer, the Government introduced certain schemes for the upliftment of socially and economically backward classes and decided to provide subsidy loans to eligible persons, depending on their requirements, including for the purchase of items and setting up businesses. The applications received under the schemes would be scrutinised and forwarded to the Manager of the DCCB Bank for conducting personal interviews. Thereafter, the District Collector, being the Nodal Officer, would sanction the loans along with the subsidy. The petitioner's role in the sanction of loans was minimal and was confined to forwarding applications submitted by interested candidates through the Branch Manager. He had no role in selecting candidates, recommending them for loans, or sanctioning the loans. His duty was only to forward the applications. The material produced by the prosecution does not disclose any involvement on his part, and there is absolutely no material to proceed against him. In the absence of such material, the Investigating Officer unnecessarily arrayed him as an accused, and continuation of the proceedings would amount to an abuse of the process of law.

3. Heard Sri Hemanth Kumar Vemuri, learned counsel for the petitioner, Sri Ch. Karthik, learned Legal Aid Counsel for Respondent No.2, and Smt. K. Priyanka Lakshmi, learned Assistant Public Prosecutor for the State.

4. Perused the petition and the material available on record. As seen from the record, based on the report of respondent No.2, a case in Crime No.27 of 2021 was initially registered for the offences punishable under Sections 406, 409, 420, 120-B and 506 read with Section 34 IPC against accused Nos.1 to 5. After completion of the investigation, the Investigating Officer laid charge sheet for the said offences against the petitioner/ accused No.8 and ten others. It is alleged that accused Nos.1 to 4 are family members; accused No.5 worked as a Manager; accused No.6 worked as a Supervisor-cum-Field Officer in the DCCB Bank; accused No.7 worked as an Assistant Manager; accused No.8 worked as a Revenue Officer; and accused Nos.9 to 11 are private persons. It is further alleged that accused Nos.1 to 3 approached respondent No.2 and others, stating that the Government was providing loans, and obtained their identity particulars. Subsequently, they approached accused No.5, the Bank Manager, who paid amounts to them. Later, they received notices from the Bank demanding repayment of loans of Rs.15,00,000/- with interest. They then came to know that accused Nos.1 to 3, in collusion with accused Nos.5 and 6, had obtained loans in the names of respondent No.2 and other groups, paid nominal amounts to them, and thereby cheated respondent No.2 and the Bank authorities.

5. Admittedly, the crime was not initially registered against the petitioner/Accused No.8. It is not in dispute that he was working as a Revenue Officer in the Municipal Corporation at the time of the alleged incident. Learned counsel for the petitioner submits that the petitioner was not a member of the authority responsible for selecting any group or sanctioning loans. His duty was confined to forwarding applications in accordance with the applicable rules and regulations. It is further contended that he had nothing to do with the affairs of the Bank Manager or the Field Officer; that the loans

were sanctioned by the DCCB Bank and not by his office; and that the District Collector was the authority empowered to sanction the loans. Therefore, according to the learned counsel, the petitioner has been unnecessarily arrayed as an accused despite the absence of material against him.

6. A perusal of the report shows that no allegations are attributed to the petitioner/Accused No.8. None of the witness statements discloses the role allegedly played by him. The charge sheet merely states that the petitioner was working as a Revenue Officer in the Municipal Corporation and that, having considered the investigation and the confessions of Accused Nos.1 to 4, the investigating agency arrayed Accused Nos.2 to 8, including the petitioner, as accused. The charge sheet further states that the petitioner was authorised to forward the applications and, on that basis, alleges that he is liable for the offence under Section 120-B IPC. However, the mere fact that the petitioner was authorised to forward applications does not, by itself, establish that he participated in a criminal conspiracy. The material must disclose, at least prima facie, his involvement in an agreement to commit an illegal act or a legal act by illegal means.

7. Learned Legal Aid Counsel for Respondent No.2 and the learned Assistant Public Prosecutor submit that the contentions raised by the petitioner should be considered at the time of trial and that this is not the appropriate stage to examine those submissions or quash the proceedings against him.

8. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in ***Dipakbhai Jagadish Chandra Patel v. State of Gujarat and another***[1], wherein it was held that:

> *"In dealing with a case against an accused person, the Court cannot start with the confession of a co-accused person; it must*

[1] (2019) 16 SCC 547

*begin with other evidence adduced by the prosecution and, after forming its opinion with regard to the quality and effect of that evidence, it is permissible to turn to the confession in order to receive assurance for the conclusion of guilt which the judicial mind is about to reach on the basis of the other evidence."*

9. As rightly contended by the learned Assistant Public Prosecutor, a petition of this nature is not an occasion to conduct an enquiry or a mini-trial. At the same time, the existence of material disclosing a prima facie case against the petitioner is a prerequisite for permitting the prosecution to continue. In the present case, even the material produced by the prosecution does not disclose the petitioner's involvement in the alleged criminal conspiracy or otherwise make out an offence against him.

11. It is well settled that, while exercising the power under Section 482 Cr.P.C. to quash an FIR or complaint, the High Court must ordinarily proceed on the basis of the allegations in the complaint and the documents accompanying it, without examining the correctness of those allegations. If the allegations, taken at face value and accepted in their entirety, do not constitute an offence, the criminal proceedings instituted on their basis may be quashed. The power to quash criminal proceedings must be exercised sparingly, with circumspection, and only in appropriate cases. The Court is not justified in embarking upon an enquiry into the reliability or genuineness of the allegations. The inherent power does not confer arbitrary jurisdiction upon the Court to act according to its whims or caprice. These principles were explained by the Hon'ble Supreme Court in ***State of Haryana and Others v. Bhajan Lal and Others***[2]. The Hon'ble Supreme Court indicated the following categories in which the power to quash may be exercised:

> "1) Where the allegations made in the first information report or the complaint, even if taken at their face value and accepted in

[2] 1992 Supplement 1 SCC 335

> their entirety, do not prima facie constitute any offence or make out a case against the accused.
>
> 2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence justifying an investigation by police officers under Section 156(1), except under an order of a Magistrate within the purview of Section 155(2) of the Code.
>
> 3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of them do not disclose the commission of any offence or make out a case against the accused.
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> 4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
>
> 5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable that no prudent person could ever reach a just conclusion that there are sufficient grounds for proceeding against the accused.
>
> 6) Where there is an express legal bar engrafted in any provision of the Code or the concerned Act to the institution or continuance of the criminal proceedings, or where the Code or the concerned Act contains a specific provision providing efficacious redress for the grievance of the aggrieved party.
>
> 7) Where a criminal proceeding is manifestly attended by mala fides and/or where the proceeding is maliciously instituted with an ulterior motive to wreak vengeance on the accused and with a view to spite him due to a private and personal grudge."

12. The record does not disclose a prima facie case against the petitioner, and there is no positive material showing his involvement in the alleged offence. Even if the documents relied upon by the petitioner are left out of consideration in this petition under Section 482 Cr.P.C., the remaining prosecution material does not disclose the essential ingredients of an offence against him. In particular, the report and the witness statements do not attribute any specific act to the petitioner that would indicate his participation in a criminal conspiracy. The allegation that he was authorised to forward

applications, without supporting material showing his involvement in the alleged conspiracy, is insufficient to justify continuation of the criminal proceedings against him. In these circumstances, permitting the proceedings to continue against the petitioner would amount to an abuse of the process of law and would cause injustice.

13. **In the result**, this Criminal Petition is allowed quashing the proceedings against the petitioner/Accused No.8 alone in C.C. No.978 of 2022, on the file of the Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Eluru, for the offence punishable under Section 120-B IPC.

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

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**SUNITHA GANDHAM,J**

Date: .10.2026
SSA/ knl