APHC010317942020

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3521]**
(Special Original Jurisdiction)

TUESDAY, THE 17th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 413/2020

Between:

1. KATIKAREDDY NAGA VENKATA SRIRAMA RAO, S/O.LATE PALLAMRAJU, AGE59 ADDRESS R/O.RAJOLE, TATIPAKA VILLAGE, RAJOLE MANDAL, EAST GODAVARI DISTRICT.
2. KATIKAREDDY VENKATESWARA RAO,, S/O.LATE PALLAMRAJU, AGE57 ADDRESS R/O.RAJOLE, TATIPAKA VILLAGE, RAJOLE MANDAL, EAST GODAVARI DISTRICT.

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY PUBLIC PROSECUTOR ADDRESS HIGH COURT OF ANDHRA PRADESH, AMARAVATHI
2. KATIKAREDDY SRILAKSHMI, W/O.RAJA RAM MOHANA SATYANARAYANA MURTHY ADDRESS R/O.RAJOLE, TATIPAKA VILLAGE, RAJOLE MANDAL, EAST GODAVARI DISTRICT.

...RESPONDENT(S):

Counsel for the Petitioner(S):

1. D V V S S N H BHUJANGA RAO

Counsel for the Respondent(S):

1. PUBLIC PROSECUTOR (AP)
2. TURAGA SAI SURYA

The Court made the following:

ORDER:

Heard the learned counsel for the petitioners, the learned Assistant Public Prosecutor and the learned counsel for respondent No.2.

2. The Criminal Revision Case has been filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for brevity, 'the Cr.P.C')/Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity, 'the BNSS'), challenging the order dated 24.03.2020 passed in C.C.No.63 of 2020 on the file of the learned Judicial Magistrate of First Class, Razole (for brevity, 'the learned Trial Court').

3. Petitioners are arrayed as Accused Nos.1 and 2. RespondentNo.2 is the sister-in-law of petitioner Nos.1 and 2. Respondent No.2 filed a protest petition by way of an application under Section 190(1)(A) of 'the Cr.P.C.' before the learned Trial Court. The learned Trial Court, after examining the respondent No.2 and four other witnesses, took cognizance of the case against the petitioners for the alleged offences punishable under Sections 354-B, 323, 448, 506 read with 34 of the Indian Penal Code, 1860 (for brevity, 'the I.P.C'). The learned Magistrate, instead of issuing process of summons, straightaway issued warrants under Section 204 of 'the Cr.P.C'. No reasons, much less valid reasons, have been assigned for taking the extreme step of issuing warrants. It is also not clear whether the warrants are bailable or non-bailable.

4. The learned Trial Court observed that the investigation done by the Investigating Officer is biased and cannot be taken into consideration. The learned Trial Court further observed that the case relates to an assault,

keeping the civil dispute in mind. The learned Magistrate, on perusal of the record, observed that when the *de facto* complainant requested the share of her husband, the petitioners attacked her and caused injuries to her.

5. On perusal of the impugned order taking cognizance and issuing warrants, there is no discussion about the statements given by the independent witnesses in favour of Accused Nos.1 and 2. There is an injunction in favour of the petitioners in respect of joint family properties. The Investigating officer had considered those injunction orders. The learned Trial Court also considered the statements of LWs.4 to 6, who stated that no assault was made by the accused towards the complainant.

6. There is no provision under the Code of Criminal Procedure, 1973,mandating that the Magistrate, while taking cognizance of an offence,is duty bound to serve notice on the proposed accused and to hear them. However, under Section 223(1) of ‘the BNSS.’, there is a clear legislative mandate that, before taking cognizance of an offence against a particular person (i.e., the proposed accused), the Magistrate is duty bound to serve notice on the proposed accused and hear the proposed accused.

7. The learned Magistrate has not considered the statements of the independent witnesses, who stated that no assault was committed by the petitioners on respondent No.2. It appears that there are civil disputes pending in between the parties. The parties, especially respondent No.2, instead of working out civil remedies available under the law, have taken recourse to criminal proceedingsby filing a protest petition.

8. In this regard, it is apposite to refer the judgment of the High Court of Madras in ***A.Rajendra v. State***[1], wherein it was held that when a protest petition is filed challenging a closure report, the Magistrate has several options, namely, to reject the closure report and take cognizance, to accept the closure report after issuing notice to the de facto complainant, or to direct further investigation. The Court further observed that a protest petition may be treated as a private complaint, but only after the Magistrate has carefully considered the closure report and the materials collected during investigation and has recorded reasons indicating why such materials are insufficient or why additional materials produced by the complainant warrant further action. The order taking cognizance must reflect an independent application of judicial mind to the closure report and the evidence on record. The Court emphasized that a Magistrate cannot mechanically disregard closure reports and proceed solely on the basis of a protest petition without considering the investigative findings. Failure to undertake such an exercise would render the order vulnerable to challenge as one passed without proper application of mind and may amount to an abuse of the process of the court. The relevant observations are contained in paragraphs 17, 18, and 22 of the judgment as under:

> *"17. When the protest petition is filed by the second respondent questioning the closure report filed by the Deputy Superintendent of Police, Thiruchendur Division, the Court below is left with three options. The first option is to disregard the closure report and take cognizance of the final report and issue summons to the accused person. The second option is to accept the closure report and issue refer charge notice to the de facto complainant to enable him to file a protest petition and the third option that is available to the Court*

[1] 2018 SCC OnLine Mad 14572

below is to order further investigation on the protest petition filed by the de facto complainant

18. If the Court below wants to convert the protest petition into a private complaint, it is open to the Court to do so, provided that the Court below had considered the entire closure report filed by the Police and it had come to a conclusion that the materials placed by the de facto complainant was not considered by the respondent Police or the de facto complainant has come up with some further materials in order to substantiate his case. This exercise has not been done by the Court below, while converting the protest petition into a private complaint and taking cognizance of the same.

22. The above two judgments squarely apply to the facts of the case. As held by this Court, the order taking cognizance of the private complaint, ought to have reflected the application of the mind of the Court below, in considering the closure report, which is already available before the Court. There is absolutely no reference to the closure report in the order taking cognizance of the private complaint by the Court below. The Court below must have also taken into consideration the fact that the second respondent was repeatedly attempting to improve his case at every stage and the Court below did not take this important aspect into consideration. The Court below also did not take into consideration the fact that the dispute between the parties is already pending before the Arbitrator.The most important factor, which the Court below did not take into consideration is that the entire dispute is purely civil in nature and the second respondent instead of pursuing the remedy before the civil forum has attempted to give the dispute a criminal colour and has managed to keep the criminal case pending for the last four years. Not once, but twice the Police have thoroughly investigated this case and have filed closure reports. Therefore, some credence must be given for these closure reports and the Court below cannot completely disregard these closure reports and take cognizance of the private complaint independently. The order of the Court below taking cognizance of the private complaint does not reflect any application of mind. The materials available on record does not make any offence under Section 120(b),420, 423, 467, 468, 406, 471 and 506(i) of IPC. The Court below has mechanically passed an order taking cognizance of the private complaint by completely disregarding the closure reports filed by the Police. That apart, the continuance of the criminal proceedings against the petitioners is a clear abuse of process of Court and the interest of justice requires the entire proceedings to be quashed."

9. In ***Narayanamma v. Chikka Venkateshaiah***[2]**,** the Madras High Court held that while a Magistrate has the jurisdiction to treat a protest petition as a private complaint, such conversion cannot be undertaken mechanically. Before taking cognizance, the Magistrate is required to independently apply

[2] 2019 SCC OnLine Mad 39867

judicial mind to the closure report submitted by the police as well as the statements and other materials collected during investigation. The Court observed that cognizance taken without such consideration of the investigative materials would be legally unsustainable, as the exercise of judicial scrutiny is a prerequisite to the valid exercise of cognizance jurisdiction. The relevant observation is contained in paragraph 19 of the judgment as under:

> *"19. It is clear from the above Judgments that if the learned Magistrate wants to convert the Protest Petition into a Private Complaint, he has the jurisdiction to do so. However, at the time of taking cognizance, the learned Magistrate has to necessarily apply his mind on the Closure Report filed by the Police and the Statements recorded by the Police during the course of investigation. This exercise has not been done by the Court below, while converting the Protest Petition in to a Private Complaint and taking cognizance of the same."*

10. In ***Manisha Jain v. State of Rajasthan***[3], the Rajasthan High Court held that although a Magistrate has the jurisdiction to disagree with a negative Final Report and take cognizance, such power must be exercised through a reasoned judicial process reflecting due application of mind to the material collected during investigation. The Court observed that a protest petition cannot be accepted mechanically by merely reiterating the allegations contained therein while ignoring the investigation record and the reasons furnished by the Investigating Officer for recommending closure. Where the Final Report is based on detailed investigation and supported by reasons, the Magistrate is required to examine the investigative material, consider the findings of the Investigating Officer, and record cogent reasons for differing

[3] MANU/RH/0660/2026

from those conclusions. The Court emphasized that recording reasons is an essential component of judicial decision-making and that an order of cognizance which fails to deal with the material collected during investigation or to explain why the conclusions in the Final Report are unacceptable is legally unsustainable. It was further held that the failure to undertake such a comparative and reasoned evaluation of the protest petition vis-à-vis the investigation record renders the order taking cognizance vulnerable to interference, as jurisdiction to disagree with a Final Report must be exercised in a lawful, informed, and reasoned manner. The relevant observations are contained in paragraphs 7, 7.1, 7.2, 7.3, 7.4, 7.5, and 7.7 to 7.11 of the judgment as under:

> *"7. A careful reading of the impugned order dated 28.05.2011 reveals that the learned Magistrate has principally relied upon the averments contained in the protest petition and the statements of the complainant and her parents. The order does not reflect any meaningful consideration of the extensive investigation undertaken by the police. Nor does it reveal any conscious examination of the circumstances which persuaded the Investigating Officer to submit a negative Final Report. The reasons recorded in the Final Report have neither been discussed nor dealt with. The learned Magistrate has not indicated as to which finding of the Investigating Officer was erroneous, perverse, unsupported by record or otherwise unacceptable in law.*
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> *7.1. The record demonstrates that the Investigating Agency had undertaken a detailed inquiry and had examined various factual aspects of the matter before arriving at the conclusion that no case warranting prosecution was made out. The negative Final Report was not a cryptic document containing bald conclusions. On the contrary, it was founded upon material collected during investigation and was supported by reasons. Once such material was available before the Court, it was incumbent upon the learned Magistrate to advert thereto and record reasons for differing with the same. Unfortunately, the impugned order is conspicuously silent on this aspect.*
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> *7.2. The Court is unable to persuade itself to accept that mere reiteration of allegations contained in the protest petition could, by itself, furnish a valid substitute for judicial consideration of the investigation record. A protest petition undoubtedly provides an avenue to the informant to question the correctness of the*

investigation. Nevertheless, the filing of a protest petition does not eclipse the investigation conducted by the police, nor does it relieve the Court of its obligation to evaluate the material collected during such investigation. The judicial exercise required in such circumstances is one of comparative evaluation and reasoned disagreement. The learned Magistrate, however, appears to have accepted the protest petition version in its entirety while virtually ignoring the investigation record.

7.3. What is particularly striking is the absence of any discussion regarding the circumstances and evidence which weighed with the Investigating Officer while recommending closure of the case. The order of cognizance does not analyse the evidence collected during investigation; it does not indicate why the Investigating Officer's conclusions were untenable; nor does it assign any reason demonstrating that the material on record prima facie established commission of offences under Sections 366, 376 and 384 IPC notwithstanding the contrary opinion formed during investigation. Such an approach, in the considered view of this Court, falls short of the standards expected from a judicial order which seeks to overturn the outcome of a completed investigation.

7.4. The requirement of recording reasons is not an empty formality. Reasons constitute the heartbeat of a judicial order. They assure the parties that their contentions have received due consideration, facilitate effective appellate or supervisory review and ensure transparency in the decision-making process. An order bereft of reasons or one which ignores material evidence cannot be sustained merely because the Court possesses jurisdiction to pass such an order. Jurisdiction and its lawful exercise are distinct concepts. While the Magistrate undoubtedly possessed jurisdiction to disagree with the Final Report, the exercise of such jurisdiction was required to be supported by cogent reasons, which are conspicuously absent in the present case.

7.5. This Court further finds that the appellate court, while modifying the nature of process issued against the accused persons, did not examine the legality and propriety of the foundational order taking cognizance from the perspective discussed hereinabove. Since the very basis of the criminal proceedings, namely the order taking cognizance, suffers from a manifest infirmity, the consequential revisional order cannot survive independently.

7.7. A perusal of the negative Final Report further reveals certain attendant circumstances of considerable significance which, in the considered opinion of this Court, lend substantial assurance to the conclusions arrived at by the Investigating Officer. The material collected during investigation discloses that the complainant and the accused were not strangers to each other and had remained acquainted for a considerable period prior to the lodging of the FIR. The investigation further indicates that the complainant continued to remain in the company of the accused for an extended duration and accompanied him on several occasions under circumstances which, prima facie, do not suggest the existence of any immediate threat, compulsion, coercion or physical restraint.

7.8. The Investigating Agency has also noticed that during the period in question, the complainant had access to numerous opportunities to communicate her alleged predicament to her family members, acquaintances or public authorities. She is stated to have visited public places, interacted with different persons and remained in an environment where assistance could readily have been sought. Notwithstanding the availability of such opportunities, there is no material indicating that she ever raised any protest, sought intervention from any quarter or disclosed the alleged offences to any person contemporaneously. Such prolonged and unqualified silence was viewed by the Investigating Officer as a circumstance fundamentally inconsistent with the allegations subsequently levelled in the FIR.

7.9. The investigation further brought to light the nature and tenor of the relationship subsisting between the parties. The surrounding circumstances, as reflected from the statements recorded during investigation and other material collected by the police, portray a relationship marked by continuity of association and voluntary companionship rather than one characterized by force, intimidation or deceit. The conduct attributed to the complainant, both antecedent and subsequent to the alleged occurrence, was found by the Investigating Officer to be incongruous with the ordinary and natural behaviour expected of a person claiming to have been subjected to the grave offences alleged in the FIR.

7.10. What particularly weighed with the Investigating Agency was the unexplained delay and sustained reticence on the part of the complainant in setting the criminal law into motion. The record does not disclose any compelling circumstance which prevented her from approaching the authorities at the earliest available opportunity. The absence of any contemporaneous complaint, coupled with her continued association with the accused over a considerable period, constituted a formidable circumstance which cast a serious doubt upon the intrinsic reliability of the prosecution version.

7.11. The aforesaid circumstances, when viewed cumulatively and in conjunction with the surrounding factual matrix, persuaded the Investigating Officer to conclude that the allegations did not inspire confidence and were beset with inherent improbabilities. This Court finds that the reasoning assigned in the negative Final Report is neither arbitrary nor speculative; rather, it is founded upon objective circumstances emerging from the investigation and a rational appreciation of human conduct and attendant probabilities. The factual features noticed by the Investigating Officer strike at the very substratum of the prosecution case and, in the considered opinion of this Court, deserved serious judicial consideration before a contrary view was adopted. The failure of the learned Magistrate to advert to these crucial aspects while disagreeing with the Final Report renders the order of cognizance legally vulnerable and unsustainable."

11. This Court in ***Desamsetti Venkateswara Rao v. The State of Andhra Pradesh***[4], held that the learned Trial Court, instead of undertaking a careful judicial scrutiny of the material available on record, proceeded mechanically to take cognizance without proper application of mind to the legal requirements governing the offences alleged.The relevant observations are contained in paragraph 72 of the judgment as under:

> "*72…..the material on record is completely bereft of any such allegation or evidence. The foundational requirement of intentional caste-based humiliation is conspicuously absent and, consequently, the very substratum of the alleged offence stands demolished.The learned Trial Court, instead of undertaking a careful judicial scrutiny of the material available on record, proceeded mechanically to take cognizance without proper application of mind to the legal requirements governing the offences alleged. In the considered opinion of this Court, the cumulative effect of the aforementioned infirmities leaves no manner of doubt that no prima facie case was made out against the Petitioner and that continuation of the criminal proceedings on the basis of such deficient material would amount to a manifest abuse of the process of Court and would result in serious miscarriage of justice."*

12. In view of the above, the order taking cognizance is liable to be interfered with and set aside.

13. Therefore, the impugned order dated 24.03.2020 passed in C.C.No.63 of 2020 on the file of the learned Judicial Magistrate of First Class, Razole, is hereby set aside. However, it is left open for the learned Magistrate to apply the mind independently by perusing the statements of LWs.4 to 6 and pass appropriate orders afresh in accordance with law.

14. Accordingly, the Criminal Revision Case is disposed of. There shall be no order as to costs.

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[4] Crl.R.C.No.812 of 2021, dated 16.09.2026

Miscellaneous Petitions pending, if any, shall stand closed.

DR. Y. LAKSHMANA RAO, J

Date: 17.11.2026
BMS