APHC010421982022

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: 6366/2022

Between:

1. BODDEPALLI ESWARA RAO, S/O. LATE CHANDRAIAH, AGED 52 YEARS, OCC . BUSINESS, R/O. D.NO.01-01, MAIN ROAD, LODDALAPETA VILLAGE, BELAMAM POST, AMADALAVALASA MANDAL, SRIKAKULAM DISTRICT.
2. DR. BODDEPALLI MAHATHI,, W/O. BODDEPALLI ESWARA RAO, AGED 52 YEARS, OCC .DOCTOR (GYNACOLOGIST), R/O. D.NO.01-01, MAIN ROAD, LODDALAPETA VILLAGE, BELAMAM POST, AMADALAVALASA MANDAL, SRIKAKULAM DISTRICT.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, AMARAVATI.
2. TAMMINENI SRINIVASA KALYANA GOWTHARN, S/O. LATE APPALANAIDU, AGED 51 YEARS, OCC . GOVERNMENT DOCTOR, KAVALI VILLAGE, SANTHAKAVITI MANDAL, SRIKAKULAM DISTRICT.

...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 Courtpleased to quash the entire proceedings in C.C. No. 43 of 2022 on the file of the Court of Learned Judicial Magistrate of First Class, Rajam and to pass

IA NO: 1 OF 2022

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 grant stay of all further proceedings including appearance of the Petitioners in C.C. No. 43 of 2022 on the file of

the Court of Learned Judicial Magistrate of First Class, Rajam, pending disposal of the main Criminal Petition and to pass

IA NO: 1 OF 2025

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 receive the document i.e.. Decree and Judgment dt. 12.02.2018 passed in OS No. 40 of 2012 on the file of the court of Learned Special Judge for Trial of cases under SCs and STs [POA] Act- cum-IV Addl. District Judge at Srikakulam being filed herewith in CrI.P No. 6366 of 2022 in the interests of justice and pass

Counsel for the Petitioner/accused(S):

1. SARATH KUMAR D

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 6366 OF 2022

ORDER:

This Criminal Petition is filed by the petitioners/accused Nos.1 and 2 under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings against them in C.C. No.43 of 2022 on the file of the Court of the Judicial Magistrate of First Class, Rajam.

2. The case of the petitioners, in brief, is that petitioner No.2 is the sister of respondent No.2 and petitioner No.1 is her husband. Owing to disputes between the parties concerning the subject land, petitioner No.2 instituted O.S. No.40 of 2012 against respondent No.2 and others. The suit was decreed in her favour by judgment dated 12.02.2018 passed by the IV Additional District Judge, Srikakulam. Aggrieved thereby, respondent No.2 preferred A.S. No.1522 of 2018, which is stated to be pending before this Court. The petitioners contend that the allegations do not disclose the ingredients of the offences punishable under Sections 427 and 447 of the Indian Penal Code (for short, "IPC"), that no material connects them with the alleged occurrence and that continuation of the proceedings would amount to an abuse of process of law.

3. Ms. P. Satya Haritha, learned counsel representing Sri D. Sarath Kumar, learned counsel for the petitioners, and Smt. K. Priyanka Lakshmi, learned Assistant Public Prosecutor, were heard.

4. Despite service of notice, respondent No.2 did not appear. Perused petition and the material available on record.

5. Learned counsel for the petitioners submits that neither the report lodged by respondent No.2 nor his statement recorded under Section 161 Cr.P.C., or the statements of the other witnesses, contains specific allegations establishing the involvement of the petitioners. According to the petitioners,

the report states that respondent No.2 came to know that some unknown persons had caused damage to the crop raised on the land situated in Survey Nos.12-3, 12-10, 36-1 to 36-10 and 13-10 of Kavali Village, Santhakaviti Mandal, Srikakulam District.

6. Per contra, the learned Assistant Public Prosecutor submits that the contentions raised by the petitioners involve matters that ought to be considered during trial and that the proceedings should not be quashed at this stage.

7. The record shows that, on the report lodged by respondent No.2, Crime No.173 of 2021 was registered for the offences punishable under Sections 447 and 427 read with Section 34 IPC. Upon completion of the investigation, the police filed a charge sheet, pursuant to which the proceedings in C.C. No.43 of 2022 came to be instituted.

8. A reading of the report indicates that the parties have disputes concerning the subject land. It is alleged that, during the night between 12.00 midnight and 3.00 a.m. on 18.10.2021, some unknown persons caused damage to the crop, resulting in a loss of Rs.60,000/-. The report also contains a general allegation that the petitioners and others had caused damage to the crop on an earlier occasion. However, the material referred to in the petition does not set out specific facts showing the manner in which the petitioners allegedly entered the land or identifying any act attributable to them in connection with the occurrence in question.

9. It is not in dispute that civil litigation concerning the subject land has taken place between the parties. O.S. No.40 of 2012 was decreed in favour of petitioner No.2, and respondent No.2 has challenged that decree in A.S. No.1522 of 2018, stated to be pending. The existence of a civil dispute, by itself, does not bar criminal proceedings where the ingredients of an offence are otherwise disclosed. Nevertheless, the allegations must independently disclose the essential ingredients of the offences alleged and must provide a prima facie basis for proceeding against the accused.

10. To attract Section 447 IPC, the material must prima facie disclose criminal trespass as defined under Section 441 IPC, including entry upon property with the requisite intent or unlawful remaining there with such intent. Likewise, an allegation under Section 427 IPC must disclose mischief within the meaning of Section 425 IPC, including the requisite intention or knowledge and the causing of wrongful loss or damage. In the present case, apart from the general assertion that the petitioners and others had caused damage on an earlier occasion, the material referred to does not disclose specific facts establishing the petitioners' participation in the occurrence forming the subject matter of the charge sheet or the requisite ingredients of the alleged offences. The conclusion is therefore based not merely on the pendency of civil litigation, but on the absence of sufficient foundational allegations connecting these petitioners with the offences alleged.

11. The principles governing the exercise of inherent jurisdiction under Section 482 Cr.P.C. are well settled. The Court must ordinarily assess the allegations and the material relied upon by the prosecution at face value, without conducting a mini-trial or examining the truthfulness of the allegations. Where, even on that basis, the allegations do not disclose an offence or do not make out a case against the accused, continuation of the proceedings may amount to an abuse of the process of law. In ***State of Haryana v. Bhajan Lal***[1], the Hon'ble Supreme Court illustrated categories of cases in which the inherent power may be exercised, including where the allegations, taken at 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; and where criminal proceedings are manifestly attended by mala fides. Applying these principles, and for the reasons stated above, this Court is of the view that the material on record does not warrant continuation of the proceedings against the petitioners.

[1] 1992 Supp (1) SCC 335

12. It is well settled that, while exercising the power under Section 482 of the Code of Criminal Procedure to quash an FIR or a complaint, the High Court has to proceed on the basis of the allegations made in the complaint or the documents accompanying it, taken at their face value, and is not required to examine the correctness or otherwise of those allegations. If the allegations, even when taken at their face value and accepted in their entirety, do not constitute an offence, continuation of the criminal proceedings would amount to an abuse of the process of law. At the same time, the power of quashing criminal proceedings is extraordinary and is to be exercised sparingly, with due circumspection and only in appropriate cases. The Court ordinarily should not embark upon an enquiry into the reliability or genuineness of the allegations at this stage. Further, Hon'ble Apex Court in Bhajan Lal (supra) has enunciated seven cardinal principles and they are reproduced as follows:

> "1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
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> 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.
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> 3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and 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 on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

> 6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act, under which a criminal proceeding is instituted, to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
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> 7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

13. Accordingly, the Criminal Petition is allowed, and the proceedings against the petitioners/accused Nos.1 and 2 in C.C. No.43 of 2022 on the file of the Court of the Judicial Magistrate of First Class, Rajam, are hereby quashed.

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

SUNITHA GANDHAM, J

10.10.2026
Scs/vns

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THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 6366 OF 2022

Date: 10.10.2026

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