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APHC010427292022

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

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 6421/2022

Between:

1. MAMIDI SIVA RAMA KRISHNA, S/O VEERABHADRA RAO, AGED 57 YEARS, RESIDING AT D.NO.30-15-124, DABAGARDENS, VISAKHAPATNAM, ADVOCATE PREVIOUSLY PANEL ADVOCATE OF STATE BANK OF INDIA, M.V.P.COLONY BRANCH, VISAKHAPATNAM
2. DADISETTI SIVA PRASAD, S/O MUKHALINGESWARA RAO, AGED 62 YEARS, RESIDING AT D.NO.3J - 8-63, NEAR NEELAMMAVEPACHETTU, DABAGARDENS, VISAKHAPATNAM-530020, ADVOCATE PREVIOUSLY PANEL ADVOCATE OF STATE BANK OF INDIA, M.V.P.COLONY BRANCH, VISAKHAPATNAM

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Special Public Prosecutor, CID, High Court Buildings at Amaravathi

...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 to quash the impugned order passed in CrI.R.P.No.11 of 2022 on the file of the Court of the II Additional Metropolitan Sessions Judge, Visakhapatnam, dated 21-06-2022 as well as cognizance order passed in CC.No.4697 of 2021, dated 09-12-2021 on the file of the court of Chief Metropolitan Magistrate, Visakhapatnam against the petitioners and allow the said CrI.R.P.No. 11 of 2022 and 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 to stay all further proceedings including appearance of the petitioners in C.C.4697/2021 on the file of the court of the Chief Metropolitan Magistrate Court at Visakhapatnam pending Criminal Petition before this Hon'ble Court and pass

Counsel for the Petitioner/accused(S):

1. R SIVA SAI SWARUP

Counsel for the Respondent/complainant:

1. SPL PP FOR CID

The Court made the following:

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No: 6421 of 2022

ORDER:

This Criminal Petition is filed by the petitioners/ accused Nos.6 and 7, to quash the order dated 21.06.2022 passed in Crl.R.P. No.11 of 2022 on the file of learned II Additional Metropolitan Sessions Judge, Visakhapatnam.

2. The case of the petitioners, in brief, is that they are practising Advocates at Visakhapatnam and have been on the panel of the State Bank of India, MVP Colony Branch, they have been rendering legal services to the Bank without any adverse remark, the investigation officer laid charge sheet against the petitioners of the offence under Section 406 IPC and the other accused for the offences under Sections 420, 467, 468, 471 read with 120 (B) IPC and the allegation is that they have given legal opinion on the basis of fabricated documents in collusion with other accused Nos.2 to 5. Further, they have furnished legal opinion/Title Report on the basis of the documents supplied by the State Bank India and that there was no occasion for them to verify the genuineness of the original documents, the allegations against them are vague and do not disclose any connection between them and the alleged acts of the other accused and without considering the material, learned Trial Court took cognizance of the offence under Section 406 IPC against the petitioners and other accused.

3. Heard Sri R.Siva Swai Swarup, learned counsel for the petitioners and learned Assistant Public Prosecutor.

4. As seen from the record, the Investigating Officer laid charge sheet of the offences under Sections 420, 467, 468, 471 read with 120 (B) IPC and 406 IPC against the accused Nos.1 to 13 including the petitioners and the learned II Additional Metropolitan Sessions Judge, Visakhapatnam took cognizance of the offence under Section 406 IPC against the petitioners/ accused Nos.6 and 7 and feeling aggrieved by the said order, the petitioners

preferred the revision in Crl.R.P. No.11 of 2022 and at the culmination of enquiry, the learned II Additional Metropolitan Sessions Judge, Visakhapatnam dismissed the petition vide order dated 21.06.2022. Feeling aggrieved by the said order, the petitioners preferred the instant petition to quash the impugned order dated 21.06.2022.

5. Learned counsel for the petitioners submitted that they have examined the documents furnished by the Bank and in the course of their professional duties, have given their legal opinion, the petitioners have been rendering legal services to the Bank since several years and that there is no material to show that they have conspired with the other accused or had any dishonest intention.

6. Per contra, learned Assistant Public Prosecutor submitted that, being Panel Advocates, the petitioners were required to verify and cross-check the documents furnished to the Bank and that the very purpose of appointing the petitioners as Panel Advocates is to safeguard the interest of the Bank.

7. Learned counsel for the petitioners relied upon the judgments of the High Court of Calcutta in ***Bhaskar Banerjee vs Central Bureau of Investigation and another***[1] wherein Hon'ble Court has followed the judgment of Hon'ble Supreme Court in ***Central Bureau of Investigation, Hyderabad v. K. Narayana Rao***[2], and ***Surendra Nath Pandey and another v. State of Bihar and another***[3].

8. It is well settled that, while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, the High Court ordinarily proceeds on the basis of the allegations in the complaint/FIR and the material accompanying it and does not conduct a detailed enquiry into the correctness or genuineness of those allegations. However, where the allegations, even if taken at their

[1] CRP 1920 of 2014
[2] (2012) 9 SCC 512
[3] (2020) 18 SCC 730

face value and accepted in their entirety, do not constitute the alleged offence or where continuation of the criminal proceedings would amount to an abuse of the process of law, the inherent jurisdiction can be exercised to secure the ends of justice.

9. The Hon'ble Supreme Court in ***State of Haryana and Others v. Bhajan Lal and Others***[4], has illustrated the categories of cases in which the inherent jurisdiction may be exercised. *Inter alia*, such jurisdiction may be invoked where the allegations, even if taken at their face value and accepted in their entirety, do not prima facie constitute an offence or make out a case against the accused; where the uncontroverted allegations and the material collected in support thereof do not disclose the commission of an offence; or where continuation of the proceedings would otherwise amount to an abuse of the process of the Court.

10. In the present case, the material placed before this Court does not disclose any positive act on the part of the petitioners connecting them, with the alleged fabrication of documents or the conspiracy attributed to the other accused. Record does not disclose material showing that they knowingly participated in the alleged fabrication, have knowledge of the alleged fraud, or shared a dishonest intention with the other accused. The allegation that, without verifying the documents, they conspired with the other accused, by itself, cannot be sufficient to sustain the criminal proceedings unless there is some material indicating their involvement and the requisite criminal intent. Mere negligence or an error in professional opinion, without material showing dishonest or fraudulent participation, would not by itself establish the ingredients of the offences alleged.

11. Assuming for the sake of arguments that the documents relied upon by the petitioners cannot be examined in detail in exercise of jurisdiction under Section 482 of the Code, the remaining allegations and material do not, in the

[4] 1992 Supp (1) SCC 335

absence of specific material demonstrating their criminal involvement, disclose the ingredients necessary to proceed against them for the offences alleged. Continuation of the proceedings against the petitioners in such circumstances would therefore serve no useful purpose and would amount to an abuse of the process of law.

12. This Court is also conscious that the inherent power under Section 482 of the Code is extraordinary and has to be exercised sparingly and with due caution. At the same time, where the allegations and the material collected during investigation do not disclose the requisite criminality on the part of the accused, permitting the prosecution to continue merely on the basis of their professional role as a Panel Advocates would not advance the cause of justice.

13. In ***Central Bureau of Investigation, Hyderabad (supra),*** the Hon'ble Supreme Court held that mere negligence, improper advice, or a wrong legal opinion given by an advocate, by itself, does not constitute criminal conspiracy or abetment. To fasten criminal liability upon an advocate, there must be material showing his participation in an agreement to commit an illegal act or that they knowingly aided or abetted the commission of the offence. Further, in ***Surendra Nath Pandey and another (supra),*** the Hon'ble Supreme Court held that mere bald and omnibus allegations against an advocate, without any specific allegation or tangible material demonstrating his participation in the alleged conspiracy, are insufficient to sustain criminal prosecution. In the absence of a specific link connecting the advocate with the principal offenders or material showing that he knowingly aided or participated in the commission of the offence, continuation of the criminal proceedings would amount to an abuse of the process of the Court.

14. Having regard to the facts and circumstances of the case and the principles laid down by the Hon'ble Supreme Court, this Court is of the considered view that the material on record does not disclose the requisite

criminal intention or participation on the part of the petitioners/ accused Nos. 6 and 7. The allegation that they furnished legal opinion on the basis of the documents supplied to them, without more, is insufficient to sustain the criminal proceedings against them and as such the order dated 21.06.2022 passed by the learned II Additional Metropolitan Sessions Judge, Visakhapatnam is not sustainable.

15. **In the result,** this Criminal Petition is allowed, quashing the order dated 21.06.2022 passed in Crl.R.P. No.11 of 2022 on the file of learned II Additional Metropolitan Sessions Judge, Visakhapatnam against the petitioners/ accused Nos.6 and 7 alone, for the offence under Section 406 IPC.

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

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SUNITHA GANDHAM, J

04-11-2026
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