APHC010468012026

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MONDAY, THE 12th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 7838 OF 2026

Between:

1. Divvala Lakshmanarao alias Sridhar, S/o Barikivadu, Aged about 40 years, R/o D.No.4-20-2-5, LG Nagar, Near Water Tank,Narava, Gopalapatnam, Visakhapatnam, Andhra Pradesh 530027

...Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Public Prosecutor, High Court of Andhra Pradesh at Amaravati,Through the Station House Officer, Krishnalanka Police Station, Vijayawada City, NTR District 520013.

2. Thokala Babu Rao, S/o. Subbarao, aged about 23 years, R/o D.No.61-9/2-16, 2nd Line, Screw Bridge, Kalanagar, Krishnalanka, Vijayawada City, NTR District, Andhra Pradesh.520013

...Respondents

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 Courtto quash the proceedings in C.C. No. 1429 of 2025, on the file of the Hon'ble II Additional Judicial Magistrate of First Class, Vijayawada,

IA NO: 1 OF 2026

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 dispense with filing of the original certified copy of CC No. 1429 of 2025, dated 12-12-2026 on the file of 2nd Addl., Judicial Magistrate of First Class Vijayawada before this Honble Court

IA NO: 2 OF 2026

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 personal appearance of the petitioner in C.C. No.1429 of 2025 before the Hon'ble II Additional Judicial Magistrate of First Class, Vijayawada, pending disposal of the above Criminal Petition, in the interest of justice.

Counsel for the Petitioner: M. SAPTHAGIRI

Counsel for the Respondents: PUBLIC PROSECUTOR

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ORDER:-

Instant Criminal Petition, under Section 528 of the Bharatiya Nagarik Suraksha Sanhitha, 2023, has been filed on behalf of the petitioner herein (Accused), seeking to quash the proceedings in C.C. No.1429 of 2025 on the file of the II Additional Judicial Magistrate of First Class, Vijayawada, for the offences under sections 420, 506 of Indian Penal Code and Section 24 read with 10 of Immigration Act, 1983.

2. Heard learned counsel for petitioner and learned Assistant Public Prosecutor appearing on behalf of respondent No.1-State.

3. Learned counsel for the petitioner, after arguing for some time, has confined his argument to the extent of dispensing with the presence of the petitioner (Accused) before the trial Court by submitting petitioner's practical constraints *viz.,* petitioner is aged about 40 years and he is doing business at Visakhapatnam, and it would be very difficult for him to attend all proceedings before trial Court at Vijayawada and further

states that family members of petitioner are suffering from ailments and states that petitioner shall not dispute his identity at a later stage of proceedings.

4. On the other hand, learned Assistant Public Prosecutor contended that specific accusations have been made as against the petitioner herein and truth or otherwise of the said accusations has to be decided during the course of trial, hence, there are no grounds to quash the proceedings at this stage. So far as dispensing with the presence of the petitioner, before the trial Court, he has not opposed the same.

5. Since there are specific accusations that have been made as against the petitioner herein, which are all disputed questions of fact, the same can be decided during the course of trial, and this Court, in a petition filed under Section 528 of BNSS, 2023 corresponding to Section 482 Cr.P.C., would not be in a position to conduct roving enquiry into the disputed questions of fact and quash the proceedings at this stage.

6. In this context, it is apt to note the dictum held in ***State of Uttar Pradesh and Another Vs. Akhil Sharda and Others***[1], by the Apex Court in its vivid terms in the following way:

> *7. Having gone through the impugned judgment and order passed by the High Court by which the High Court has set aside the criminal proceedings in exercise of powers under Section 482 Cr.P.C., it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482 Cr.P.C. As observed and held by this Court in a catena of decisions no mini trial can be conducted by the High Court in exercise of powers under Section 482 Cr.P.C., jurisdiction and at the stage of deciding the application under Section 482 Cr.P.C., the High Court cannot get into appreciation of evidence of the particular case being considered.*

7. Considering the facts and circumstances of the case, this Court is not inclined to quash the proceedings against the petitioner herein. However, due to ground realities submitted by the counsel for the petitioner, presence of petitioner herein (Accused) before the Court of II Additional Judicial Magistrate of First Class, Vijayawada, in C.C.No.1429 of 2025 is hereby

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dispensed with, except on those dates when the learned trial Court feels that his presence is necessary. In the event of failure of the petitioner to appear, when the trial Court specifically directs, this Order shall stands automatically revoked, without recourse to this Court.

8. Accordingly, the Criminal Petition is disposed of.

9. Needless to state that the petitioner is at liberty to raise all the grounds before the trial Court.

As a sequel, all pending applications shall stand closed.

JUSTICE MAHESWARA RAO KUNCHEAM

Date: 12.10.2026
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12.10.2026

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