Neutral Citation: _____

APHC010468482026

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI **[3606]**

WEDNESDAY, THE 28TH DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

TRANSFER CRIMINAL PETITION No.88 OF 2026

Between:

1. Parimi Sobharani, W/o Parimi Srinu, aged about 40 years, House wife, R/o Raghudevapuram Village, Seethanagaram Mandal, East Godavari District.

...Petitioner

AND

1. K. Murali Krishna, S/o Ranganayakulu, Hindu, aged about 49 years, Business, R/o D.No.13-133, Vadlapalem, Tadipathri Town, Anantapur District – 515411.
2. The State of Andhra Pradesh, Rep by its Public Prosecutor, High Court of Andhra Pradesh.

...Respondents

May be pleased to withdraw the CC No.858 of 2022 from the Court of Judicial Magistrate of First Class, Tadipathri and transfer the same to VII Addl. Judicial Magistrate of First Class, Rajahmundry, East Godavari District.

IA No.1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to order stay of all further proceedings in CC No.858 of 2022 on the file of Judicial Magistrate of First Class, Tadipathri, Anantapur District pending disposal of the above Transfer Criminal Petition.

Counsel for the Petitioner : J U M V PRASAD

Counsel for the Respondents : PUBLIC PROSECUTOR

Counsel for the Respondents : M RAVINDRA

The Court made the following

ORDER:

This Transfer Criminal Petition is filed, under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS'), seeking withdrawal and transfer of C.C. No.858 of 2022, pending on the file of the Court of the Judicial Magistrate of First Class, Tadipathri, to the Court of VII Additional Judicial Magistrate of First Class, Rajahmundry, East Godavari District.

2. The petitioner is Parimi Sobharani, respondent No.1 is K. Murali Krishna, and respondent No.2 is the State. Notices were served on respondent Nos.1 and 2. Respondent No.1 is represented by his counsel, Sri M. Ravindra, and respondent No.2, the State, is represented by the learned Public Prosecutor.

Factual matrix:

3. Respondent No.1 is the complainant in C.C. No. 858 of 2022. He lodged a complaint alleging that the petitioner had borrowed Rs.5,00,000/- in the course of her business to meet her business expenditure. To discharge the debt, she came to Tadipathri and issued a cheque for Rs. 5,00,000/- in favour of respondent No.1. When the cheque was presented to respondent No.1's banker at Tadipathri, it was returned with the endorsement '*funds insufficient*'. Respondent No.1 issued a legal notice demanding payment of the amount. As the amount was not paid, he lodged the complaint.

4. The petitioner seeks transfer of C.C. No.858 of 2022 from the Court of the Judicial Magistrate of First Class, Tadipathri, to the Court of the VII Additional Judicial Magistrate of First Class,

Rajahmundry, on the ground that she suffers from severe back pain and has difficulty attending the Court at Tadipathri. On 02.08.2023, she was diagnosed with Grade 1 anterolisthesis of L4 over L5, with a pseudo disc bulge at L4-L5 and central protrusion causing severe bilateral neural foramen narrowing, resulting in compression of the bilateral exiting L4 nerve roots. Owing to this condition, she claims that she is unable to travel from Rajahmundry to Tadipathri. On one occasion, the learned Judicial Magistrate of First Class, Tadipathri, issued Non-Bailable Warrants against her, which were subsequently recalled. On these grounds, she seeks withdrawal and transfer of C.C. No.858 of 2022 from the Court at Tadipathri to the Court of the VII Additional Judicial Magistrate of First Class, Rajahmundry, East Godavari District.

5. Respondent No.1 did not file a counter but advanced oral arguments. He submitted that respondent No.2, the State, is only a formal party and that no relief is sought against it.

Arguments of the petitioner:

6. Sri J.U.M.V. Prasad, learned counsel for the petitioner, submitted that the petitioner is suffering from spondylosis and has filed medical reports issued by the All India Institute of Medical Sciences (AIIMS), Mangalagiri, in support of her case. She was also examined at Saradhi Hospitals, Rajahmundry, on 24.07.2026, where the same condition was identified. According to the learned counsel, these medical records establish that the petitioner is unable to travel from Rajahmundry to Tadipathri. He further submitted that, as the petitioner is a woman, she cannot travel alone

and would require someone to accompany her. He therefore requested that the Petition be allowed.

Arguments of respondent:

7. Sri M. Ravindra, learned counsel for respondent No.1, submitted that, with the advancement of technology, the petitioner need not be physically present on every date of adjournment. With the permission of the Court, she may appear through virtual mode, or her personal appearance may be dispensed with in accordance with law. He contended that jurisdiction under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act'), lies with the Court where the case is pending and that Section 142 of the NI Act governs the jurisdiction. The jurisdictional Court should not be deprived of the opportunity to deal with the case. He therefore opposed the relief sought and requested that the Petition be dismissed.

8. I have heard both learned counsels and perused the record.

Discussion:

9. The petitioner's difficulty is her appearance before the Court at Tadipathri due to her ill health. Respondent No.1 has not filed a counter disputing her medical condition. His contention, however, is that her personal appearance can be dispensed with. He also contends that the Court at Tadipathri has jurisdiction to try the case and that transfer would cause inconvenience to the complainant. The proceedings initiated by respondent No.1 are for the offence punishable under Section 138 of the NI Act; Section 142 deals with

the cognizance of such offences and related matters. In proceedings under the NI Act, the proceedings are summary in nature and are required to be disposed of within the prescribed time. Such proceedings involve criminal liability as well as the civil liability.

10. There is no contention that the Court at Tadipathri lacks jurisdiction or is otherwise incompetent to try the case. The issue raised is one of convenience. In proceedings under the NI Act, the complainant, rather than the State, ordinarily prosecutes the complaint. Transfer of a case from one Court to another on grounds of convenience may affect the opposite party. Apart from her ill health, the petitioner has raised no other ground for transfer. The inconvenience involved in travelling, by itself, does not warrant transfer in the circumstances of this case. The BNSS, 2023, and the Code of Criminal Procedure, 1973, provide mechanisms by which an accused may seek exemption from personal appearance and representation through counsel, wherever permitted by law.

11. The Hon'ble Apex Court, in a series of decisions aimed at expediting trials under Section 138 of the NI Act, has discussed on these aspects. In Suo Motu Writ Petition (Criminal) No. 2 of 2020, In Re: Expeditious Trial of Cases under Section 138 of the NI Act, 1881, orders were passed on 16.04.2021 and, in continuation thereof, on 19.05.2022. Some of the relevant observations therein are extracted hereunder:

> "2) Inquiry shall be conducted on receipt of complaints under Section 138 of the Act to arrive at sufficient grounds to proceed against the accused, when such

> accused resides beyond the territorial jurisdiction of the court.
>
> 3) For the conduct of inquiry under Section 202 of the Code, evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the Magistrate can restrict the inquiry to examination of documents without insisting for examination of witnesses.
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> 4) xxxxxxxxxxxxxxxxxxxxx
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> 5) xxxxxxxxxxxxxxxxxxxxx
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> 6) Judgments of this Court in ***Adalat Prasad*** (supra) and ***Subramanium Sethuraman*** (supra) have interpreted the law correctly and we reiterate that there is no inherent power of Trial Courts to review or recall the issue of summons. This does not affect the power of the Trial Court under Section 322 of the Code to revisit the order of issue of process in case it is brought to the court's notice that it lacks jurisdiction to try the complaint."

12. In ***Sanjabij Tari v. Kishore S. Borcar***[1], the Hon'ble Apex Court laid down guidelines for expeditious disposal of cases and addressed the scope for compounding the offences. In ***Basavaraj R. Patil and others v. State of Karnataka and others***[2], the Hon'ble Apex Court held that the examination of an accused under Section 313 Cr.P.C. may, in appropriate circumstances, be conducted by dispensing with the accused's physical presence. Various provisions provide for the appearance of parties through alternative modes.

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[1] Criminal Appeal No.175 of 2010, dt.25.09.2025
[2] AIR 2000 SCC 3214

13. The object of these provisions and the guidelines is to ensure the expeditious disposal of cases under Section 138 of the NI Act. C.C. No.858 of 2022 has been pending for the past four years, and the proceedings are still at the stage of securing the petitioner's appearance. The BNSS also recognizes the use of technology and provides for appearances through electronic means in appropriate circumstances.

14. The High Court of Andhra Pradesh has framed Rules in 2023 and 2026 for the appearance of parties and the examination of witnesses through video conferencing. It is stated that the District Courts have been provided with the necessary equipment to facilitate virtual appearances and record evidence through video conferencing. Parties who face difficulties due to ill health or other constraints may approach the concerned Court by filing appropriate applications under the applicable rules. It may be appropriate to that avail these facilities, where the criminal procedure requires personal appearance of parties. However, such requirements cannot be overridden merely for the sake of convenience.

15. In ***M/s. Shri Sendhur Agro and Oil Industries v. Kotak Mahindra Bank Limited***[3], the Hon'ble Apex Court observed as follows:

> "65. For the purpose of transfer of any case or proceedings under Section 406 of the Cr.P.C., the case must fall within the ambit of the expression "expedient for the ends of justice". Mere inconvenience or hardship that the accused may have to face in travelling from Coimbatore to

[3] Transfer Petition (Criminal) No.608 of 2024 and Batch, Dt.06.03.2025

> Chandigarh would not fall within the expression "expedient for the ends of justice". The case must fall within any of the five situations as narrated in para 49 of this judgment. It is always open for the petitioner accused to pray for exemption from personal appearance or request the Court that he may be permitted to join the proceedings online.
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> **Conclusion**
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> 66. Having regard to the pleadings in the memorandum of the transfer petition, we have reached the conclusion that no case is made out for transfer of the proceedings in question under 406 CrPC."

16. In the said case, the Hon'ble Apex Court observed that it is open to the petitioner/accused to seek permission from the Court to attend the proceedings online or to request that the relevant examination be conducted in an appropriate manner. This observation is relevant to the present case. Relying on this approach, the Hon'ble Apex Court dismissed the application seeking transfer of proceedings under Section 138 of the NI Act from one Court to another.

17. In ***Golla Naeresh Kumar Yadav*** (4th *supra*), it was held as follows at Para Nos.20, 24 and 27:

> "20. Relative convenience/inconvenience needs to be viewed from myriad angles. The Court needs to address the following questions:
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> a. Does the continuation of proceedings in a far-off court adversely affect the accused's fair trial rights and render an unjust advantage to the complainant?

b. Does a shift of venue cause undue hardship to the complainant, denying him the right to prosecute the offender at a place which the law of the land prescribes?

c. Does such transfer cause convenience/inconvenience to witnesses who may be called upon to depose in the case?

Upon taking a holistic view of all these aspects, the Court would come to a conclusion whether the healing balm of transfer is necessary to ensure a level-playing field and eschew an unfair battle between the parties expedient for the ends of justice.

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24. But such inconvenience/hardship in securing legal representation and effective defence cannot be seen in isolation. They must be weighed on a balancing scale against the complainant's right to access justice in a court prescribed by law. The convenience/inconvenience paradigm essentially rests on the relative status and wherewithal of parties to the *lis*. In the event the parties are co-equal in status and socio-economic standing, the court may be shy to transfer a case solely for the convenience of legal representation and defence of the accused, since such a shift, though welcome from the end of the accused, would cause undue hardship to the complainant. On the other hand, if the battle is between two unequal parties i.e., the complainant, a large corporation and the accused, a puny individual with limited means, a transfer of the proceedings to secure adequate legal representation to such an accused would hardly impact the giant corporation's right to access justice. It is little solace for the accused to be told that he may be represented under Section 228 BNSS

> (corresponding to Section 205 CrPC) through a lawyer when he is be required to travel over a thousand kilometers to engage a lawyer ordinarily practicing in such court and have regular consultations with him for preparation of his defence. The balance of relative convenience in such Cases would surely tilt in favour of the accused justifying transfer.
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> 27. As we are differing from the view expressed in *Shri Sendhur Agro & Oil Industries* (supra), in consonance with the principles of judicial discipline and decorum, we consider it prudent to place the matters before the Hon'ble Chief Justice for constituting a Larger Bench to give a definitive opinion on the issue at hand. In the interregnum, the proceedings shall be transferred to the Court of Chief Metropolitan Magistrate, Hyderabad."

18. In ***Golla Naraesh Kumar Yadav etc. v. Kotak Mahindra Bank***[4], the decision of ***M/s. Shri Sendhur Agro*** (3rd *supra*) was referred to and the matter was referred to a Larger Bench. However, the principle that a party may, with the Court's permission, seek exemption from personal appearance or permission to appear online has not been distinguished.

19. Thus, the observations of the Hon'ble Apex Court in the ***M/s. Shri Sendhur Agro & Oil Industries*** (3rd *supra*) case, refer to the circumstances, of parties who are equal and parties who are not equals. The circumstances are the situation where the opposite party is a giant such as huge corporate body having different branches

[4] 2025 LiveLaw (SC) 1172

and invokes one of the places of its branches, invoking jurisdiction at its branches far away to the Accused for the offences under Sec. 138 of NI Act, which are in comparison to the dispute between equal parties - single individuals. On application of both the decisions, it is evident that the appearance of parties, distance, convenience have to be seen on both sides, not accused alone. Transfers have to be considered on certain parameters as observed in ***Shri Shendhur Agro Case (cited supra)*** and equalities of the parties as observed in ***Golla Naresh Kumar Yadav case (cited supra)***. The courts have to balance the circumstances.

20. It is reiterated that, High Court of Andhra Pradesh has laid down rules for electronic mode of appearance of parties and examination in tune with the provisions under the new criminal laws – Bharatiya Nagarika Suraksha Sanhita 2023 (in short referred as BNSS) under 'Andhra Pradesh Electronic Communication and Video Conferencing Rules, 2026', framed by the High Court of Andhra Pradesh at Amaravati, which facilitate the conduct of judicial proceedings through video conferencing.

21. In the new criminal laws, BNSS, 2023, specific provisions have been incorporated for appearance of parties and recording their evidence in criminal proceedings. In brief, some of the relevant provisions are referred in the following tabular form:

Section	**Subject**	**Relevance to virtual/electronic proceedings**
2(1)(a)	Audio-video electronic means	Defines "audio-video electronic means"; includes video conferencing and use of electronic

		communication for specified procedural purposes.
154	Attendance of witnesses	Relevant to securing attendance of witnesses; electronic/VC procedure may operate subject to applicable rules.
251	Framing of charge	Electronic proceedings framework may facilitate reading/explaining the charge through VC, subject to applicable VC rules.
266	Defence evidence	Defence evidence/witness examination may be recorded through audio-video electronic means.
310	Evidence procedure	Relevant to electronic recording of evidence/deposition in circumstances covered by the provision and applicable VC rules.
316	Examination of accused	Relevant to electronic examination of an accused, particularly an accused in custody, subject to statutory safeguards.
355	Inquiry/trial where personal attendance is dispensed with	Important where personal attendance of the accused is dispensed with; to be read with electronic-mode provisions and applicable VC rules.
366	Evidence of public servants/experts/police officers	Electronic/VC examination may be used within the statutory electronic proceedings framework.

22. The aforesaid provisions would show that the Courts are empowered to use the electronic means to expedite the process of trial including leverage to the parties, avoiding delays in travelling for appearance and evidence. In view of the above, the petitioner may also seek exemption from personal appearance, as permissible under law.

23. The petitioner's assertion on medical condition and the difficulty expressed by her in travelling, concerned, the court has to see whether the circumstances pleaded warrant transfer of the proceedings from the Court having jurisdiction to try the complaint.

24. The petitioner relies on her ill health as the ground for seeking transfer. On the material placed before this Court, her grievance is that travelling causes her difficulty. This Court, without proper appreciation, merely on the application of the petitioner, on the documents of reports, may not be in a position to conclude the ill health. The petitioner can approach the trial Court with relevant documents, the Court upon which can look into. Unless, there is cogent supportive material, considering these documents as it is, may not be appropriate, as in my view the trial court is competent to pass appropriate orders considering her appearance. Petitioner has not raised any other ground that warrants to consider at this stage.

25. Having regard to the contention of petitioner, the reason assigned is not supportive to her contention, and having considering the time from the institution of the case before trial court, and that till now no progress is there, and that considering the nature of the proceedings under Section 138 of the NI Act, with the above supporting provisions, in view of advent of technology, the need for their expeditious disposal, and the availability of appropriate remedies before the trial Court to address the difficulty pleaded by the petitioner, I am of the view that, that transfer of the case is not warranted. The power under Section 447 of the BNSS cannot be invoked. The petitioner is at liberty to approach the trial Court for

appropriate relief, including exemption from personal appearance and permission to appear through virtual mode, in accordance with law, on such approach the trial Court is has to pass appropriate orders for dispensing, appearance of petitioner in further proceedings. The trial Court is directed to dispose of the subject matter as expeditiously as possible.

26. For the foregoing reasons, I am of the view that the Transfer Criminal Petition is liable to be dismissed.

Result:

27. Accordingly, the Transfer Criminal Petition is dismissed.

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

Interim order granted earlier shall stand vacated.

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JUSTICE PURUSHOTTAM KUMAR CHINTHALAPUDI

Date:28.10.2026
DSH

Whether the order is:

Speaking		Reasoned	
Reportable		Non-Reportable	