APHC010497052026

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI (Special Original Jurisdiction)

[3504]

WEDNESDAY, THE 25th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 8359/2026

Between:

1. K SRIHARI KUMAR, S/O LATE K. KRISHNA MURTHY,R/O D.NO.11-117-1, NARAYANAPURAM VILLAGE, ANANTHAPUR URBAN MANDAL ANANTHAPUR DISTRICT-

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, THROUGH INSPECTOR, ANANTAPUR IV TOWN P.S.,HIGH COURT BUILDINGS, ANANTHAPURAM DISTRICT, AP. -
2. BANDARU SUBBARAYUDU, S/O BANDARU PEDDANNAR/O SINAGANAMALA MANDAL, LOLURU VILLAGE,ANANTHAPURAM DISTRICT, A.P-

...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 Courtcall for records to quash the Cr.No.143 of 2026 dt. 06-08-2026 on the file of Anantapur IV town police station , Ananthapuramu district

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 stay all further proceedings in Cr.No.143 of 2026 dt. 06-08-2026 on the file of Anantapur IV town police station , Ananthapuramu district pending disposal of the criminal petition

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 may be pleased to permit additional material papers to be taken on record of the additional material papers and pass

Counsel for the Petitioner/accused:

1. K V RAGHU VEER

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 8359 of 2026

The Court made the following Order:

Instant Criminal Petition, under Section 528 of the Bharatiya Nagarik Suraksha Sanhitha, 2023, has been filed on behalf of the petitioner herein (A1), seeking to quash the proceedings in Crime in FIR No.143 of 2026 of Anantapur VI Town Police Station, Ananthapuram District, for the offences punishable under Sections 351(2) of the Bharatiya Nyaya Sanhitha, 2023, and Sections 3(1)(r) and 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for the petitioner, submits that pursuant to the order of this Court, he has taken personal notice on respondent No.2 and filed a memo dated 21.09.2026 stating that notice was served.

3. Learned Assistant Public Prosecutor submits that he has taken notice to respondent No.2.

4. Despite service of notice, none represented respondent No.2.

5. Learned counsel for the petitioner submits that all the offences alleged against the petitioner is punishable with

imprisonment of less than seven (07) years and more so, in view of the well settled law, Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita 2023, is applicable to the offence U/s.3(1)(x) of SC & ST (POA) Act, 1989 also. Substantiating the same, he relied on the Order dated 25.10.2017 of the High Court of Andhra Pradesh, at Hyderabad in ***Rajulapati Ankababu Vs. State of Andhra Pradesh***[1] and the Order of this Court dated 01.05.2024 in Crl.P.No.2416 of 2024 in ***Kandala Penchalaiah and Others Vs. The State of Andhra Pradesh***.

6. On the other hand, learned Assistant Public Prosecutor did not oppose the same and concurred with the submission made by the learned counsel for the petitioner for the reason that the offences alleged are punishable with imprisonment of less than seven years.

7. Heard. Perused the entire available material on record.

8. In this context it is appropriate to note the dictum held in ***Rajulapati Ankababu***'s case, wherein the Common High Court at Hyderabad, dealt with the identical issue. For comprehensive view, the relevant portion is extracted hereunder:

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[1] Crl.P.No.7468 of 2011 dated 25.10.2017

"31. The core issue which falls for consideration at this juncture is whether the Investigating Officer has to follow the procedure as contemplated under Section 41A of Cr.P.C., while conducting investigation in respect of the offences alleged to have been committed under the provisions of the SC/ST Act.

32. The SC/ST Act came into force with effect from 30.1.1990. Section 41A of Cr.P.C., was introduced in the year 2010. The Parliament was very much aware of the provisions of the SC/ST Act at the time of introducing Section 41A of Cr.P.C., in the year 2010. Had it been the intention of the Parliament to exclude the application of Section 41A of Cr.P.C., in respect of the offences committed under the SC/ST Act, the same might have been reflected in the Cr.P.C. There is no specific provision under the SC/ST Act, excluding the application of Section 41 of Cr.P.C. The Parliament amended the provisions of the SC/ST Act, by way of Amendment Act 1 of 2016 by introducing certain provisions. The Parliament is very much aware of existence of Section 41A of Cr.P.C., at the time of making suitable amendments to the SC/ST Act. It is a settled principle of law that the provisions of Cr.P.C., are applicable to the Special Acts so far as the investigation, inquiry and trial are concerned, unless there is specific provisions under the Special Act. Even under the amended Act, there is no provision which specifically excludes the application of Section 41A of Cr.P.C., in respect of offences committed under the SC/ST Act.

33. Having regard to various provisions of the Cr.P.C., and the SC/ST Act referred supra, and the principle enunciated in Arnesh Kumar, I am of the considered view that Section 41A Cr.P.C., in letter and spirit, is applicable to the offences committed under the SC/ST Act if the offence is punishable with imprisonment for a term which may be less than seven years or which may extend upto seven years, whether with or without fine."

9. Since the offences alleged are punishable with imprisonment of less than seven years and in view of the no objection expressed by the Assistant Public Prosecutor, coupled with the well-settled legal principles held in ***Rajulapati Ankababu***'s case, this Court directs the respondent/police to follow the procedure as contemplated under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 41A Cr.P.C., scrupulously as per the guidelines enunciated in ***Arnesh Kumar Vs. State of Bihar and another[2],*** which was reiterated in the judgment of the Hon'ble Apex Court in ***Satendar Kumar Antil Vs. Central Bureau of Investigation and Another[3].*** If it is noticed in the course of investigation that the petitioner herein has committed any offence which is punishable

2 (2014) 8 SCC 273
3 2026 SCC OnLine SC 162

with imprisonment beyond seven years, the investigating officer is at liberty to proceed in accordance with the law.

10. Accordingly, this Criminal Petition is disposed of.

Interlocutory applications, if any, pending shall stand closed.

JUSTICE MAHESWARA RAO KUNCHEAM

Date: 25.11.2026
vnb

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 8359 of 2026

Date: 25.11.2026

vnb