APHC010534222026

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

[3504]

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 8943/2026

Between:

1. SANDEEP KUMAR, S/O. NENMAL, AGED ABOUT 37 YEARS, OCC BUSINESS,R/O FLAT NO. 301, SREE LATHA TOWERS, SINGARAJU VARI STREET, ONETOWN, VIJAYAWADA, NTR DISTRICT, ANDHRA PRADESH - 520001.
2. YOGESH KUMAR, S/O. NENMAL, AGED ABOUT 37 YEARS, OCC BUSINESS,R/O FLAT NO. 301, SREE LATHA TOWERS, SINGARAJU VARI STREET, ONETOWN, VIJAYAWADA, NTR DISTRICT, ANDHRA PRADESH - 520001.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P.,THROUGH ITS SHO, I TOWN POLICE STATION, VIJAYAWADA.
2. BHUMAJI SHIVA KUMAR, S/O SUDHAKAR, AGED ABOUT 32 YEARS, OCC BUSINESS, R/O D. NO. 7-3-109/B/L, MADHUBHAN COLONY, GAGAN PAHAD, KATEDAN,

HYDERABAD - 500077.

...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 Courtquash the proceedings in C.C. No. 9956 of 2025, pending on the file of the Hon'ble IX Additional Chief Judicial Magistrate Court, 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 dispense with filing of the certified copy of C.C. No. 9956 of 2025, on the file of IX Additional Chief Judicial Magistrate Court, Vijayawada,

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 stay all further proceedings in C.C. No. 9956 of 2025, on the file of IX Additional Chief Judicial Magistrate Court, Vijayawada, pending disposal of the accompanying Criminal Petition

Counsel for the Petitioner/accused(S):

1. KARTHIK SHAH

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION No: 8943 of 2026

The Court made the following Order:

Instant Criminal Petition, under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed on behalf of the petitioners herein (A1 and A2), seeking to quash the proceedings in CC No.9956 of 2025 on the file of the learned IX Additional Chief Judicial Magistrate Court, Vijayawada, in Crime No.90 of 2025 of I Town Police Station, Vijayawada, registered for the offences punishable under Sections 318(4), 61(2) r/w 3(5) of the Bharatiya Nyaya Sanhitha, 2023 and Sections 63, 68 of Copy Right Act.

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

3. Learned counsel for the petitioners, after arguing for some time, has confined his argument to the extent of dispensing with the presence of the petitioners before the trial Court by submitting petitioners' practical constraints in attending before the trial Court and states that petitioners shall not dispute their 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 petitioners 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 petitioners, before the trial Court, he has not opposed the same.

5. Since there are specific accusations that have been made as against the petitioners 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*

[1] 2022 LiveLaw (SC) 594

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 petitioners herein. However, due to ground realities submitted by the counsel for the petitioners, presence of the petitioners herein (A1 and A2) before the learned IX Additional Chief Judicial Magistrate Court, Vijayawada, in CC No.9956 of 2025 is hereby dispensed with, except on those dates when the learned trial Court feels that their presence is necessary. In the event of failure of the petitioners 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 petitioners are at liberty to raise all the grounds before the trial Court.

Interlocutory applications, if any, pending shall stand closed.

JUSTICE MAHESWARA RAO KUNCHEAM

Date: 06.10.2026
vnb

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 8943 of 2026

Date: 07.10.2026

vnb