APHC010566742026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3504]**
(Special Original Jurisdiction)

MONDAY, THE 26th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 9488/2026

Between:

1. SATYALA BABA FAKRUDDIN, MUSLIM, OCCUPATION UNEMPLOYED, RESIDING AT NO.9, 1ST CROSS, NANJAPPA GARDEN,NEXT TO GAGAN JYOTHU APARTMENT, MANJUNATHA LAYOUT, R.T.NAGAR, BANGALORE-560032, KARNATAKA.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, ,REP. BY ITS PUBLIC PROSECUTOR,HIGH COURT BUILDINGS, AMARAVATI, GUNTUR DISTRICT.-522002.
2. NOOR MOHAMMED NAZEEMA, ,W/O S. BABA FAKRUDDIN, AGED ABOUT 32 YEARS, OCU PRIVATE EMPLOYEE, DOOR NO.6/195, MUKUNDAR GADDA STREET, RAJAMPET TOWN AND MANDAL, ANNAMAIAH DISTRICT -516115 PREVIOUSLY KADAPA DISTRICT.

...RESPONDENT/COMPLAINANT(S):

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 pleased to quash the entire proceedings in D.V.C. No.2 of 2023 on the file of the Hon'ble Judicial Magistrate of First Class, Rajampet, insofar as the Petitioner/RespondentNo.1 is concerned, as being illegal, vexatious and an abuse of the process of law, and consequently discharge the Petitioner from the said proceedings, and pass

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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 in D.V.C. No.2 of 2023 on the file of the Hon'ble Judicial Magistrate of First Class, Rajampet, as insofar as the Petitioner/Respondent No.1 is concerned, including his personal appearance before the learned Trial Court, and pass

Counsel for the Petitioner/accused:

1. N V MOHANA RAO

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

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/respondent No.1 therein, seeking to quash the proceedings in D.V.C.No.2 of 2023 on the file of the Judicial Magistrate of First Class, at Rajampet, filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

2. Heard Ms. Palle Kumari, learned counsel representing Mr. N.V.Mohana Rao, learned counsel for the petitioner and Mr. K.Sandeep, learned Assistant Public Prosecutor appearing on behalf of respondent No.1-State.

3. Learned counsel for the petitioner submits that the petitioner herein is eking out his livelihood by carrying on a small business in Bangalore and that it is difficult for him to attend the day-to-day proceedings before the Court at Rajampet, YSR Kadapa District.

4. Learned counsel for the petitioner, after arguing for some time, has confined her argument to the extent of dispensing with the presence of the petitioner herein before the trial Court by submitting petitioner’s practical constraints in attending before the trial Court and states that petitioner shall not dispute his identity at a later stage of proceedings.

5. 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.

6. 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.

7. 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*

[1]2022 LiveLaw (SC) 594

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.

8. In ***Vishal Shah Vs. Monalisha Gupta & Ors.***[2], Hon'ble Apex Court has observed that there is no requirement for the personal appearance of any party in the proceedings under the Domestic Violence Act, 2005, because they are *quasi*-criminal in nature and do not entail any penal consequences, except when there is a breach of a protection order, which is the only offence provided under Section 31 of the Domestic Violence Act, 2005.

9. 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, particularly that the petitioner herein is eking out his livelihood by carrying on a small business in Bangalore and that it is difficult for him to attend the day-to-day proceedings before the Court at Rajampet, YSR Kadapa District, presence of petitioner herein/respondent No.1 before the Judicial Magistrate of First Class, Rajampet, in D.V.C.No.2 of 2023 is hereby 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

[2]2025 Live Law (SC) 240

trial Court specifically directs, this Order shall stand automatically revoked, without recourse to this Court.

10. Accordingly, the Criminal Petition is disposed of.

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

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

MAHESWARA RAO KUNCHEAM, J

Dated: 26.10.2026
MDP