Date of reserved for orders : 24-08-2026
Date of pronouncement : 30-10-2026
Date of uploading :30-10-2026

APHC010580442022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

FRIDAY, THE 30th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 8521/2022

Between:

1. PEDDARAPU SRINIVAS, S/O MALLESWARAO, HINDU, AGED ABOUT 37 YEARS, RESIDENT OF D.NO. 51-2-23/A, MAITRY NAGAR, OPPOSITE TO GOVERNMENT HOSPITAL, VIJAYAWADA. KRISHNA DISTRICT.
2. NANDURU VENKATA TANDAVA KRISHNA, S/O SURYANARAYAN, HINDU, AGED ABOUT 38 YEARS,COMPUTER OPERATOR, OFFICE OF T.T.D. E-DARSHAN COUNTER, T.T.D. KALYANA MANDAPAM CAMPUS, OPP. DOORDARSHAN, SURYARAOPET, VIJAYAWADA.KRISHNA DISTRICT

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC PROSECUTOR HIGH COURT BUILDINGS, AT VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
2. NAGOTHU SATYANARAYANA, S/O SANYASI RAO, HINDU. AGED ABOUT 36 YEARS , SATYA DIGITALS , BESIDE INDIAN OIL PETROL BUNK. GANDHI NAGAR. VIJAYAWADA 520003

...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 Court pleased to call for the entire records in C.C.No.320 of 2017 on the file of the court of the IV Addl. Chief Metropolitan

Magistrate at Vijayawada, Krishna District for the offence under Sec.193 and 211 IPC and quash the same as abuse of process of law in so far as the petitioners are concerned and pass

IA NO: 1 OF 2022

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 grant stay of all further proceedings including presence of the petitioners in C.C.No.320 of 2017 on the file of the court of the IV Addl.Chief Metropolitan Magistrate at Vijayawada Krishna District, pending disposal of the above Criminal Petition and pass

Counsel for the Petitioner/accused(S):

1. T RAGHU PRASAD

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)
2. M KISHORE BABU

The Court made the following:

HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No 8521 of 2022

ORDER:

This Criminal Petition is filed by the petitioners/ accused Nos.6 and 8 to quash the proceedings against them in C.C. No. 320 of 2017 on the file of the IV Additional Chief Metropolitan Magistrate, Vijayawada of the offences punishable under Sections 193 and 211 of the Indian Penal Code (herein after referred to 'the Code').

2. The principal contention of the learned counsel for the petitioners is that the alleged offences under Sections 193 and 211 IPC are directly connected with the earlier judicial proceedings in C.C. No. 706 of 2010. Therefore, in view of the express bar under Section 195(1)(b)(i) Cr.P.C., the Magistrate could not have taken cognizance of the offences on the basis of a private complaint filed by the second respondent. The learned counsel relied upon the judgments of the Hon'ble Supreme Court in ***Kamlapati Trivedi v. State of West Bengal***[1] and ***M.R. Ajayan v. State of Kerala and others***[2] in support of this contention.

3. The case of the respondent No.2/ complainant, in brief, is that he was prosecuted for an offence punishable under Section 420 IPC in C.C. No. 706 of 2010 on the file of the IV Additional Chief Metropolitan Magistrate, Vijayawada, pursuant to a complaint given on behalf of Bajaj Finance Limited and at the culmination of trial, he was acquitted by judgment dated 30.06.2015 and he was falsely implicated in the earlier criminal case, and the officials of Bajaj Finance Limited and the police personnel acted in collusion against him. Further, the complaint and the evidence given during the earlier proceedings were false and caused him considerable hardship, loss of business and mental agony.

[1] 2024 INSC 881
[2] MANU/SC/0106/1978

Respondent No.2 filed a private complaint under Section 190 and 200 Cr.P.C to take action against the persons concerned for the offences punishable under Sections 193 and 211 of the Code.

4. The learned IV Additional Chief Metropolitan Magistrate having recorded the sworn statement of the respondent No.2/complainant and considered the documents produced by him, found a prima facie case and issued summons to the petitioners and five others. Aggrieved by the said order, the petitioners filed the instant petition.

5. Heard Sri Thungala Raghu Prasad, learned counsel for the petitioners and Sri M.Kishore Babu, learned counsel for the respondent No.2 as well as Smt.K.Priyanka Lakshmi, learned Assistant Public Prosecutor. Perused the material available on record.

6. The point that arises for consideration is whether the proceedings initiated on the basis of the private complaint are legally sustainable in view of the bar contained in Section 195(1)(b)(i) Cr.P.C.

7. Section 195(1)(b)(i) Cr.P.C. provides that no Court shall take cognizance of an offence punishable under Sections 193 to 196, 199, 200, 205 to 211 and 228 IPC, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on a complaint in writing of that Court or of some other Court to which that Court is subordinate.

8. The object of this provision is to protect the administration of justice from frivolous or vexatious prosecutions concerning offences allegedly committed in relation to judicial proceedings. The provision also ensures that the question whether an offence affecting the administration of justice has been committed is

considered by the Court concerned, which is in a position to assess the nature and effect of the alleged misconduct.

9. In the judgment relied upon by the learned counsel for the petitioners in **Kamlapati Trivedi** (supra), the Hon'ble Supreme Court considered the applicability of Section 195 Cr.P.C. to an allegation under Section 211 IPC arising out of criminal proceedings and also recognised that, where the alleged offence falls within the statutory prohibition, cognizance cannot be taken in the absence of the complaint contemplated by Section 195 Cr.P.C. The applicability of the provision depends upon the nature of the alleged offence and its connection with the judicial proceedings.

10. In the present case, the allegations in the complaint are not confined to an independent dispute unrelated to judicial proceedings. As per the version of the complainant, he was falsely implicated in C.C. No. 706 of 2010 and without there being any material, he was prosecuted and during trial, gave false evidence, and as such Sections 193 and 211 IPC have a direct connection with the earlier criminal proceedings and the evidence adduced therein.

11. The mere fact that the complainant was acquitted in the earlier case does not, by itself, establish that the original complaint or the evidence given in that case was false. An acquittal may result from several circumstances, including the prosecution's failure to establish its case beyond reasonable doubt. In the other judgment relied upon by the petitioners in ***M.R. Ajayan (supra)***, the Hon'ble Supreme Court examined the scope of Section 195 Cr.P.C. and the procedure applicable to offences affecting the administration of justice. The judgment emphasises the importance of following the statutory procedure and also recognises the power of a superior Court to direct the filing of a complaint in an appropriate case. The said judgment does not permit a Magistrate to disregard

the statutory conditions governing cognizance merely because the allegations appear serious.

12. Applying the above principles to the facts of the present case, the offences alleged under Sections 193 and 211 IPC arise out of, or are alleged to have been committed in relation to, the earlier criminal proceedings. Respondent No.2 instituted the present proceedings through private complaint. The material placed before this Court does not indicate that cognizance was taken on the basis of a written complaint by the Court concerned or a Court to which it is subordinate, as required under Section 195(1)(b)(i) Cr.P.C.

13. The requirement under Section 195 Cr.P.C. is mandatory. Where the provision applies, the Magistrate cannot overcome the statutory bar merely by recording the sworn statement of the complainant, examining the documents produced by him or forming an opinion that a prima facie case exists. The existence of material suggesting an offence and the legal competence to take cognizance are separate questions. Even if the allegations warrant consideration, the procedure prescribed by law must be followed.

14. It is also necessary to clarify that quashing the present proceedings does not amount to a finding that the allegations made by the respondent No.2 are false or that no offence was committed by any person. The question whether the alleged acts warrant action for offences affecting the administration of justice must be considered in accordance with the procedure prescribed under Sections 195 and 340 Cr.P.C., wherever applicable. The competent Court may take such steps as are permissible in law, independently of the impugned cognizance.

15. In view of the foregoing discussion, this Court is of the considered opinion that the continuation of the proceedings in C.C. No. 320 of 2017, insofar as the petitioners are concerned, cannot be sustained as the cognizance has been

taken on a private complaint, in contravention of the statutory bar under Section 195(1)(b)(i) Cr.P.C.

16. In the result, this criminal petition is allowed, quashing the proceedings against the petitioners/ accused Nos.6 and 8 alone in C.C. No. 320 of 2017 on the file of the IV Additional Chief Metropolitan Magistrate, Vijayawada for the offences under Sections 193 and 211 of the Indian Penal Code

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

SUNITHA GANDHAM, J

Date:30 .10.2026
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