APHC010580902026

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

FRIDAY, THE 30th DAY OF OCTOBER 2026

**PRESENT**

**THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

**CRIMINAL PETITION NO: 9759/2026**

**Between:**

1. AVULA TARUN, S/O. A. VENKATA RAMANA, AGE 32 YEARS, OCC IT PROFESSIONAL,PERMANENT R/O. SY.NO.328/1A, PLOT NO. 18,BHAIRAVA NAGAR, NEAR RTO OFFICE, ANANTAPURTOWN DISTRICT-51002.

**...PETITIONER/ACCUSED**

**AND**

1. THE STATE OF ANDHRA PRADESH, REP.BY ITS PUBLIC PROSECUTOR, HIGH COURT AT AMARAVATHI.
2. GALI SUSHMA ALIAS AVULA SUSHMA, W/O. AVULA TARUN, AGED ABOUT 28 YEARS,R/O. CHERLOPALEM VILLAGE, KOVUR MANDAL S.P.S.R NELLORE DISTRICT-524137.

**...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 call for the records in DVC.No.19/2026 on the file of Judicial Magistrate of I Class for Excise, Nellore and quash the same in so far as Petitioner/RI is concerned., and pass

**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 to dispense with the filing of certified copy of petition in DVC.No. 19/2026 on the file of Judicial Magistrate of I Class for Excise, Nellore and pass

**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 to grant stay of all further proceedings in so far as against the Petitioner/R1 is concerned in DVC.No.19/2026 on the file of Judicial Magistrate of I Class for Excise, Nellore and pass

**Counsel for the Petitioner/accused:**

1. G VENKATA REDDY

**Counsel for the Respondent/complainant(S):**

1. PUBLIC PROSECUTOR

**THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

**CRIMINAL PETITION NO: 9759 of 2026**

**ORDER:-**

Instant Criminal Petition, under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed on behalf of the petitioner herein, seeking to quash the proceedings in DVC No.19 of 2026 on the file of learned Special Judicial Magistrate of First Class for Excise, Nellore, claiming reliefs under Section 12, 18, 19, 20 & 23 of the Protection of Women from Domestic Violence Act, 2005.

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

3. Learned counsel for the petitioner, after arguing for some time, has confined his argument to the extent of dispensing with the presence of the petitioner 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.

4. 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.

5. 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.

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 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. 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

[1] 2022 LiveLaw (SC) 594
[2] 2025 Live Law (SC) 240

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.

8. 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, presence of the petitioner herein (Respondent No.1) before the Special Judicial Magistrate of First Class for Excise, Nellore, in DVC No.19 of 2026 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 trial Court specifically directs, this Order shall stands automatically revoked, without recourse to this Court.

9. Accordingly, the Criminal Petition is disposed of.

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

As a sequel, all pending applications shall stand closed.

**JUSTICE MAHESWARA RAO KUNCHEAM**

Date: 30.10.2026
RMR

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**THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

**CRIMINAL PETITION NO: 9759 of 2026**

**30.10.2026**

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RMR