APHC010597602026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

WEDNESDAY, THE 11th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 10064 OF 2026

Between:

1. Penumadula Hymavathi, , W/o Narasa Rao, Aged 56 years, R/o. D.No. 8-502-1, Balaji Nagar, Railway Road, Sullurupeta, SPSRNellore District, Andhra Pradesh. A-2

2. Sunkara Divya Deepthi, Penumadula Divya Deepthi, W/o AshokKumar, Aged 38 years, R/o. H. No. 5-88, Flat No. 404, GarudaGateway, Upparapalli Road, Thummalagunta, Tirupati District,Andhra Pradesh. A-3

...PETITIONER/ACCUSEDs

AND

1. The State of Andhra Pradesh, Represented by its PublicProsecutor, High Court of Andhra Pradesh at Amaravati, GunturDistrict, Andhra Pradesh. SHO, Ongole II Town Police Station

2. Jerripothu Gowthami, W/o Penumadula Sarath Chaitanya, Aged 37years, R/o Annavarappadu, 4 Lane, Ongole Town, PrakasamDistrict, Andhra Pradesh

...RESPONDENT/COMPLAINANTs

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 may be pleased to quash the proceedings in C.C. No. 41 of 2026 on the file of the Hon'ble 11 Additional Judicial Magistrate of First Class, Ongole, Prakasam District in Crime No. 117 of 2025 and pass such

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 may be pleased to dispense with filing of the original certified copy of C.C. No. 41 of 2026, on the file of II Additional Judicial Magistrate of First Class, Ongole, Prakasam District in Crime No. 117 of 2025 before this Hon’ble Court and pass such

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 stay all further proceedings in C.C. No. 41 of 2026 on the file of the Hon'ble II Additional Judicial Magistrate of First Class, Ongole, Prakasam District in Crime No. 117 of 2025 pending disposal of this Criminal Petition and pass such

Counsel for the Petitioner/accused: CHETAN PONNURU

Counsel for the Respondent/complainants: PUBLIC PROSECUTOR

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

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ORDER:-

Instant Criminal Petition, under Section 528 of the Bharatiya Nagarik Suraksha Sanhitha, 2023, has been filed on behalf of the petitioners herein (A2 & A3), seeking to quash the proceedings in C.C No.41 of 2026 on the file of the II Additional Judicial Magistrate of First Class, Ongole, Prakasam District, for the offences under Sections 85, 318(4), read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

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

3. Learned counsel for the petitioners submits that petitioner No.1 is a woman aged about 56 years and is a resident of Sullurpeta, SPSR Nellore District and petitioner No.2 is the daughter of petitioner No.1 and a resident of Thummalagunta, Tirupati District, and as such, it is difficult for them to attend the Court. Learned counsel, 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 the petitioners' practical constraints in attending before the trial Court and states that the 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:

> *"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*

[1]2022 LiveLaw (SC) 594

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 and as petitioner No.1 is a woman aged about 56 years and is a resident of Sullurpeta, SPSR Nellore District and petitioner No.2 is the daughter of petitioner No.1 and resident of Thummalagunta, Tirupati District, presence of the petitioners herein (A2 & A3) before the II Additional Judicial Magistrate of First Class, Ongole, Prakasam District, in C.C No.41 of 2026 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 stand 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.

Pending interlocutory applications, if any, shall stand closed.

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JUSTICE MAHESWARA RAO KUNCHEAM

Date: 11.11.2026
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THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

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