APHC010598742026

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

THURSDAY, THE 12th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 10083/2026

Between:

1. KOTHAKOTA JAGANMONHANA RAO, S/O.VISWESWARA RAO,AGE 39 YEARS, GOWTHAMI STREET, PALASA-KASIBUGGA MUNICIPALITY,SRIKAKULAM DISTRICT, ANDHRA PRADESH.
2. KOTHAKOTA SUJATHA, W/O.VISWESWARA RAO,AGE 59 YEARS, GOWTHAMI STREET, PALASA-KASIBUGGA MUNICIPALITY,SRIKAKULAM DISTRICT, ANDHRA PRADESH.
3. KOTHAKOTA VISWESWARA RAO, S/O.LATE ANNAJIRAO,AGE 65 YEARS, GOWTHAMI STREET, PALASA-KASIBUGGA MUNICIPALITY,SRIKAKULAM DISTRICT, ANDHRA PRADESH.
4. JAMI MANGA, W/O.VENKATA RAMANA,AGE 39 YEARS, SHIVAJI NAGAR, PALASA-KASIBUGGA MUNICIPALITY,SRIKAKULAM DISTRICT, ANDHRA PRADESH.
5. JAMI VENKATA RAMANA, S/O.BABURAO,AGE 48 YEARS, SHIVAJI NAGAR, PALASA-KASIBUGGA MUNICIPALITY,SRIKAKULAM DISTRICT, ANDHRA PRADESH.
6. GEMBALI LALITHA, W/O.KIRAN KUMAR,AGE 36 YEARS, TURUKUPETA VILLAGE, BANDHUGAN BLOCK, KORAPUT DISTRICT,STATE OF ODISHA.
7. GEMBALI KIRAN KUMAR, S/O.NAGESWARA RAO,AGE 47 YEARS, TURUKUPETA VILLAGE, BANDHUGAN BLOCK, KORAPUT DISTRICT,STATE OF ODISHA.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR,HIGH COURT OF ANDHRA PRADESH, AMARAVATHI.

2. KOTHAKOTA JYOTHSNA, W/O.JAGANMOHANARAO,AGED ABOUT 33 YEARS, R/O. GOWTHAM STREET,PALASA, SRIKAKULA DISTRICT, ANDHRA PRADESH.

...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 Courtpleased to call for records in C.C. No. 548 of 2025 on the file of Judicial Magistrate of 1ST Class, Palasa registered for the offences U/Sec. 85 of B.N.S., 2023 and Sections 3 & 4 of Dowry Prohibition Act, 1961 and quash the same against the Petitioners/Accused 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 pleased to stay the proceedings in C.C. No. 548 of 2025 on the file of Judicial Magistrate of 1®* Class, Palasa registered for the offences U/Sec. 85 of B.N.S., 3 2023 and Sections 3 & 4 of Dowry Prohibition Act, 1961 pending disposal of the main criminal petition, and pass

Counsel for the Petitioner/accused(S):

1. PAVULURI SREENIVASULU

2. Pavuluri Sreenivasulu

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

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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 petitioners herein (A1 to A7), seeking to quash the proceedings in C.C. No. 548 of 2025 on the file of the Court of learned Judicial Magistrate of 1st Class, Palasa, for the offences punishable under Section 85 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

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 herein (A1 to A7) before the trial Court by submitting petitioners' practical constraints that petitioner Nos.2 and 3 are the aged parents of petitioner No.1 and are suffering from various ailments, whereas other petitioners are distant relatives of petitioner No.1 who are residing separately from the petitioner No.1, as such they could not attend the Court on each and every adjournment before the Trial Court. Learned counsel further states that petitioners shall not dispute their identity at a later stage of proceedings.

4. Conversely, 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 regard, 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.*

[1] 2022 LiveLaw (SC) 594

7. Taking note of facts and circumstances of the case, this Court is not inclined to quash the proceedings against the petitioners herein (A1 to A7). However, due to ground realities submitted by the counsel for the petitioners, keeping in view of criminal proceedings arising out of matrimonial disputes *inter-se* parties i.e., petitioner No.1 and respondent No.2, petitioner Nos.2 and 3 are suffering with ailments, other petitioners are distant relatives of petitioner No.1, presence of petitioners herein (A1 to A7) before the Judicial Magistrate of 1st Class, Palasa, in C.C. No. 548 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.

As a sequel, all pending applications shall stand closed.

JUSTICE MAHESWARA RAO KUNCHEAM

Date: 12.11.2026
vnb

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CRIMINAL PETITION NO: 10083 of 2026

Date: 12.11.2026

vnb