SS,J
Crl.R.C.No. 349 of 2009
Dated 06.10.2026

APHC010648832009

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3560]
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 349 OF 2009

Between:

1. KOTHA RAVINDRA REDDY, S/O SUNDARARAMI REDDY, MORAVAGUPALEM, CHERUKUPALLI MANDALAM, GUNTUR DIST.

...PETITIONER

AND

1. THE STATE OF A P, Through the Sub-Inspector of Police, Lalapet (L & O) P.S., Guntur. Rep. by the Public Prosecutor, High Court of A.P., Hyderabad.

...RESPONDENT

Counsel for the Petitioner:

1. CH RAVINDRA BABU

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

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ORDER:

1. Instance Criminal Revision Case has been preferred against Judgment dated 27.02.2009 passed in Criminal Appeal (Crl.A) No. 193 of 2008 by the I Additional District & Sessions Judge, Guntur, wherein and where under he confirmed the conviction of petitioner for commission of offence under section 489C of the Indian Penal Code, recorded by the learned II Additional Senior Civil Judge –cum- Assistant Sessions Judge, Fast Track Court, Guntur, dated 02.06.2008 in Sessions Case (SC) No. 518 of 2007.

2. Petitioner along with other three persons were arrayed as accused before the learned Trial Court in Crime No.63 of 2006 of Lalapet Law and Order Police Station, Guntur, for the offence under sections 489B and 489C of the Indian Penal Code.

3. **Brief facts of prosecution case**: On 15.03.2006 at about 3.00 P.M., Sub-Inspector of Police, Lalaguda Police Station, Guntur, on reliable information, proceeded towards Etukuru road along with his staff and mediators by a Jeep and when they reached near Communist statue center at about 4.00 P.M., Accused No.1 and 2 tried to ran away on seeing police Jeep. On suspicion, they caught hold both of them and interrogated in the presence of mediators (P.W.5 and P.W.6). Petitioner/Accused No.1 during interrogation

confessed that Accused No.3 gave eighty numbers (80) counterfeit currency notes of Rs.500/- denomination each for exchange at communist statue center and they have come there to exchange their counterfeit currency notes to a person who will come on a motor cycle. Police seized a black colour handbag from the possession of the petitioner wherefrom 80 fake currency notes of Rs.500/- denomination were found. The Sub-Inspector of Police arrested the petitioner/ Accused No.1 and Accused No.2 by seizing the counterfeit currency notes in the presence of mediators, under a cover of mediatornama. The said counterfeit notes were forwarded to the Forensic Science Laboratory (FSL), they confirmed those to be counterfeit. Basing on the statement of petitioner and Accused No.2, police arrested Accused No.3 and he was interrogated by the police, wherein he confessed that he received counterfeit currency notes from Accused No.4.

It is further prosecution case that the said counterfeit currency notes were alleged to be exchanged by Accused No.1 and 2 to a person arranged by one Madhava Rao. Investigation ended in charge sheet, on the basis of which, criminal proceedings started.

4. During trial, prosecution has produced as many as 10 witnesses, several documents, including F.S.L report, were marked as Ex.P.1 to Ex.P.12. 80 counterfeit currency notes, including black colour hand gab alleged to be

recovered from the possession of petitioner and Accused No.2 were marked as Material Objects (M.Os) No.1 to 83.

5. Upon hearing both sides counsel, upon perusing the oral and documentary evidence placed on record by both parties, learned trial court found the petitioner/ Accused No.1 and Accused No.2 to be guilty for the offence punishable under section 489C of the Indian Penal Code and they are convicted and sentenced to suffer Rigorous Imprisonment for a period of five (05) years each and to pay a fine of Rs.2,000/- (Rupees two thousand) each, in default of payment of fine, to suffer Simple Imprisonment for a period of six (06) months each.

6. Order of conviction and sentence was challenged through an appeal before the learned I Additional District and Sessions Judge, Guntur. After hearing the parties, the learned Appellate Court acquitted Accused No.2, but, order of conviction of Petitioner/ Accused No.1 was confirmed. Hence, the instance Criminal Revision Case has been preferred by Petitioner/Accused No.1.

7. Learned Counsel for the Petitioner submits that the learned Trial Court as well as the leaned Appellate Court misread the evidence on record; charge against the petitioner being Accused No.1 had not proved beyond all reasonable doubt. He further submits that there are no independent witnesses in

this case, except police witnesses. On the basis of evidence of police witnesses, learned Trial Court has recorded conviction against the Petitioner.

8. Recording conviction only on the basis of police witnesses is highly deprecated by this Court in **Kamisetty Venkata Satyanarayana –vs. The State of Andhra Pradesh, in Criminal Revision Case No.1260 of 2008, decided on 20.02.2026.** By relying on the above case, he submits that in identical facts and circumstances, this Court is of the opinion that the evidence of police witnesses is not sufficient to prove the charge against the accused persons for the offence under section 489C of the Indian Penal Code, so, he prayed for acquittal.

9. Mr. M.Lakshmi Narayana, Public Prosecutor has referred relevant paragraphs recorded by the learned Trial Court. He submits that the learned Trial Court has sufficiently observed the evidence of entire prosecution witnesses. The evidence of P.W.7 to P.W.9 is clinching and proper. The evidence of Sub-Inspector of Police (P.W.10) also support the prosecution case, thereby, the order of conviction and sentence recorded by the learned Trial Court, affirmed by the learned Appellate Court, against the Petitioner, is justifiable.

10. Heard both sides counsel and perused the material available in record.

11. It appears that in this case there are ten prosecution witnesses, among them, P.W.1 to P.W.4 are the local witnesses in whose presence the alleged incident of seizure was effected. P.W.5 and P.W.6 are the mediators, who were present at the time of seizure of counterfeit currency notes from the possession of the Petitioner (Accused No.1). P.W.5 and P.W.6 being the mediators, turned hostile, they did not support the prosecution case, thereby, the prosecution has only placed P.W.7 to P.W.9 who are police constables alleged to have been present at the time of arrest and seizure of counterfeit currency notes from the possession of petitioner/Accused No.1. P.W.10 is the investigation officer in this case.

12. On thorough inspection of prosecution evidence, it appears that only P.W.7 to P.W.10, who are police Constables and Investigation Officer, supported the prosecution case. Investigation Officer - P.W.10, submitted that the charge sheet alleging charge against petitioner/ Accused No.1 for commission of the offence under sections 489C and 489B of the Indian Penal Code. Other witnesses i.e., P.W.7 to P.W.9 were obviously under the control of P.W.10. Furthermore, in this case, seizure, registration of F.I.R., and investigation is conducted by the same Sub-Inspector of Police i.e., P.W.10 who submitted Charge Sheet against accused persons. Though it is not always illegal *per se*,

but, for the purpose of free and fair investigation, Investigation Officer should not be the same Police Officer, who conducted search and seizure.

13. This Court in **Kamistty Veenkata Satyanarayana** case *supra,* this has observed in paragraph No.11 as follows:

> "11. To prove the ingredients, in this particular case, prosecution placed PW.1 and 2/mediators, who supposed to prove seizure of counterfeit notes from the possession of the petitioner, but they did not support the prosecution case, only PW.3, who is police witness, supports the prosecution case, on the basis of it, learned trial Court and learned appellate Court has recorded conviction. In my view, the seizure of counterfeit notes, in a case for the offence punishable under Section 498(c) IPC, is a primary objective which the prosecution must prove beyond all reasonable doubt. The evidence of Police witness is not sufficient to record conviction. The panch witness turned hostile; during cross-examination by the prosecution, their version regarding non-presence at the time of seizure was not shaken, thereby the prosecution has miserably failed to prove that the alleged counterfeit currency notes were 7 seized from the possession of the petitioner. So, before dealing with an offence punishable under Section 489 (c) IPC, learned trial Court must ascertain that the possession of counterfeit notes by accused has sufficiently proved beyond reasonable doubt. When independent witness are declared hostile, a conviction solely on the basis of police witness is a dangerous proposition, by that way any innocent person may be falsely implicated. Thus, it cannot be said that prosecution has brought home the charge beyond all reasonable doubt. Reasons thereby, the learned trial Court and the learned appellate Court have illegally recorded the order of conviction. Under the above noted, the order of conviction passed against the petitioner by the learned trial Court as well as the learned appellate Court appears to be perverse one. Therefore, the judgment dated 08.04.2008 in Sessions Case No.297 of 2007 of the learned Principal Assistant Sessions Judge, Rajahmundry as well as judgment dated 22.07.2008 in Criminal Appeal No.124 of 2008 are hereby set aside".

Following the above observation of this court, it appears that the facts and circumstances before this Court in **Kamistty Veenkata Satyanarayana** case

supra, are identical of this case in hand. It further appears that the mediatornamas (marked as Ex.P.6 to Ex.P.9) were prepared by a Police Constable in the presence of mediators, but he was not cited as a witness in this case. Thus, I am of the view that the evidence of police witnesses in this particular case is not sufficient to bring home the charge against the petitioner/ Accused No.1 for the offence under section 489C of the Indian Penal Code beyond all reasonable doubt. Thereby, the order of conviction and sentence appears to me illegal and improper and the same is liable to be set aside, and accordingly, it is set aside.

14. Accordingly, the petitioner/Accused No.1 is hereby acquitted from this case.

15. The sureties standing in favour of the petitioner/Accused No.1 are also released.

16. On the above observation, the Criminal Revision Case is allowed.

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

SRI JUSTICE SUBHENDU SAMANTA

Dated 06.10.2026
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THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

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