

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE TWENTY SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

CIVIL REVISION PETITION NO: 2940 OF 2023

Petition under Article 227 Constitution of India aggrieved by the order dated 01-08-2023 passed in I.A.No.1908 of 2021 in O.S.No.64 of 2019 on the file of the Court of the Junior Civil Judge-cum-Metropolitan Magistrate at Chevella, Ranga Reddy District.

Between:

Smt. M. Sridevi died per LR, Reddy Gokul Kumar s/o Late.Praveen Kumar, aged 24 years, Occ: Pvt.employee r/o 87, Barry Circle, Bloomfield, CT-06002 USA rep.by Power of Attorney Holder T.Mallikarjuna Reddy s/o Late.Venka Reddy, aged about 53 years, Occ: Business r/o 82/A, Vengal Rao Nagar Hyderabad.

...PETITIONER/PETITIONER/PLAINTIFF

AND

1. Sri Divi Satya Sayee Babu, s/o Divi Madhusudhana Rao, aged 41 years, Occ: Business Executive r/o 51-1-19 Jagannadharaju Nagar, Venkojipalem
2. Mrs.B.Sujatha, w/o Narsimha Reddy, aged 62 years, Occ: Housewife r/o 1-8-115, Road No.1, Vidyutnagar P and T Colony, Dilsukhnagar Hyderabad.

...RESPONDENTS/RESPONDENTS/DEFENDANTS

I.A. NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in OS.No.64/2019 on the file of the court of Junior Civil Judge cum Metropolitan Magistrate, Chevella, R.R.District, pending disposal of CRP.No. /2023.

Counsel for the Petitioner: Sri Purnima Singh

Counsel for the Respondents: Sri Lohit Sannapaneni

The Court made the following: ORDER

**THE HIGH COURT FOR THE STATE OF TELANGANA AT
HYDERABAD**

**THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO
CIVIL REVISION PETITION NO.2940 OF 2023
DATED: 27th FEBRUARY 2026**

Between:

Smt.M.Sridevi died per LR
Reddy Gokul Kumar S/o. Late. Praveen Kumar,
Aged 24 years, Occ:Prt.employee
R/o.87, Barry Circle, Bloomfield, CT-06002
USA rep.by Power of Attorney Holder
T.Mallikarjuna Reddy S/o.Late Venka Reddy
Aged about 53 years, Occ: Business
R/o 82/A, Vengal Rao Nagar.

... Petitioner – Petitioner - Plaintiffs

And

1.Sri Divi Satya Sayee Babu and another

... Respondents – Respondents - Defendants

ORDER

1. This memorandum of Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order passed by the learned Junior Civil Judge – cum – Metropolitan Magistrate, Chevella, Ranga Reddy District, in I.A.No.1908 of 2021 in O.S.No.64 of 2019, dated 01.08.2023.

2. The petitioner is the petitioner – plaintiff and respondents are the respondents – defendants in I.A.No.1908 of 2021 in O.S.No.64 of 2019.

3.1 The petitioner - plaintiff has filed I.A.No.1908 of 2021 in O.S.No.64 of 2019 under Sections 195 and 340 of Cr.P.C to make a preliminary enquiry into the offences under Sections 193, 196, 199 and 200 of IPC which appears to have been committed in respect of verification which has been solemnly affirmed and annexed to the written statement dated 08.07.2019 and subsequently filed and submitted in the proceedings of the above said suit.

3.2 Respondents – defendants have filed counter and opposed the application.

4. The learned Trial Court *vide* order dated 01.08.2023 has dismissed the application which is impugned in the present Civil Revision Petition.

5. Learned counsel for the petitioner – plaintiff submits that the learned Trial Court could not have adjudicated the disputed questions on merits which precluded the rights of the parties at the preliminary stage and could have postponed adjudication of the petition to be decided along with the suit upon evidence or relegated the parties to work out their remedies separately and independently. The Trial Court failed to appreciate the scope and ambit of Sections 195 and

340 of Cr.P.C, where under the petitioner sought for a preliminary enquiry for the offences under Sections 193, 196, 199 and 200 of IPC. Preliminary enquiry is required to be held into the offences referred to under Section 195 of IPC, it is not a mere case of sufferance of injury but is interference with due course of justice. It is a case of deliberate falsehood and the trial Court overlooked the same. The Trial Court ought to have seen that by pressing documents the respondents sought to establish their possession and managed to get the same. Counsel to substantiate her contention has relied on the decisions in the cases of (i) Chandra Shashi Vs. Anil Kumar Verma¹, (ii) Sachida Nand Singh and another Vs. State of Bihar and another², (iii) Surya Dev Rai Vs. Ram Chander Rai and Others³, (iv) Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil⁴ and (v) Union of India Vs. Haresh V.Milani and another⁵.

6. Learned Senior Counsel appearing for the respondents - defendants contended that CRP itself is not maintainable, even otherwise learned Trial Court has gone into the matter in detail and rightly dismissed the application filed by the petitioner - plaintiff. Counsel to substantiate his contention has relied on the decisions in the cases of (i) Iqbal Singh Marwah and another Vs. Meenakshi

¹ (1995) 1 SCC 421

² (1998) 2 SCC 493

³ (2003) 6 SCC 675

⁴ (2010) 8 SCC 329

⁵ (2018) SCC OnLine Bom 2080

Marwah and another⁶, (ii) Jose Kuruvinakunnel Vs. A.T.Jose⁷, (iii) Darastul Khalif Vs. The State of Jharkhand and Others⁸, (iv) V.A.Rocky Vs. Pavunni and Others⁹ and (v) V.Ramesh Babu, Advocate, Khammam Vs. State of A.P. Rep.by P.P., High Court of A.P., Hyderabad¹⁰.

7. Counsels on record have filed their written submissions in support of their contentions.

8.1 It is apt to note here that the Registry has returned the CRP on 22.09.2023. The endorsement of the Registry is as under:

"CRP.SR.No. 36947/2023

Please verify and clarify how this CRP.SR is entertainable U/Art 227 of Constitution of India against the order dated 01.08.2023, passed in I.A.No.1908/2021 in O.S.No.64/2019 in the Court of JCJ – Metropolitan Magistrate, R.R.District since the said IA was filed U/s 195 & 340 of Criminal Procedure Code."

8.2 On 25.09.2023 learned counsel for the petitioner – plaintiff has resubmitted the bundle as under:

"Resubmitted

The petition was filed before the Hon'ble Junior Civil Judge, seeking for lodging of complaint to the concerned as it is the Court before which the offence took place is to lodge the complaint. This is an order of a Civil Court and hence Revision under Article 227 of C.O.I is maintainable."

⁶ (2005) 4 SCC 370

⁷ 1996 Supreme (ker) 411

⁸ (2008) SCC OnLine Jhar 315

⁹ 2014 Supreme (Ker) 758

¹⁰ 2019 Supreme (Telangana) 351

9.1 Section 195 of Cr.P.C., reads as under:

195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.-(1)

No Court shall take cognizance-

- (a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or
- (ii) of any abetment of, attempt to commit, such offence, or
- (iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;
- (b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or
- (ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or
- (iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

[except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate].

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that-

- (a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;
- (b) where appeals lie to a civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

9.2 Section 340 of Cr.P.C reads as under:

340. Procedure in cases mentioned in section 195.-(1) When upon an application made to it in this behalf or otherwise, any Court is of opinion that is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-

- (a) record a finding to that effect;
- (b) make a complaint thereof in writing;
- (c) send it to a Magistrate of the first class having jurisdiction;
- (d) take sufficient security for the appearance for the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed,-

- (a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;
- (b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.]

(4) In this section, "Court" has the same meaning as in section 195.

9.3 Section 341 of Cr.P.C reads as under:

341. Appeal. (1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or Section (2) of section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, making of the complaint which such former Court might have made under section 340, and if it makes such complaint, the provisions of that section shall apply accordingly.

(2) An order under this section and subject to any such order, an order under section 340, shall be final, and shall not be subject to revision.

10.1 In Surya Dev Rai³, Supreme Court observed as under:

"38(7) 7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the above said two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for

correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred thereagainst and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

39. Though we have tried to lay down broad principles and working rules, the fact remains that the parameters for exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a strait-jacket formula or rigid rules. Not less than often, the High Court would be faced with a dilemma. If it intervenes in pending proceedings there is bound to be delay in termination of proceedings. If it does not intervene, the error of the moment may earn immunity from correction. The facts and circumstances of a given case may make it more appropriate for the High Court to exercise self-restraint and not to intervene because the error of jurisdiction though committed is yet capable of being taken care of and corrected at a later stage and the wrong done, if any, would be set right and rights and equities adjusted in appeal or revision preferred at the conclusion of the proceedings. But there may be cases where "a stitch in time would save nine". At the end, we may sum up by saying that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the judge."

10.2 In Shalini Shyam Shetty⁴, Supreme Court held as under:

"48. The jurisdiction under Article 227 is exercised by the High Court for vindication of its position as the highest judicial authority in the State. In certain cases where there is infringement of fundamental right, the relief under Article 226 of the Constitution can be claimed *ex debito justitiae* or as a matter of right. But in cases where the High Court exercises its jurisdiction under Article 227, such exercise is entirely discretionary and no person can claim it as a matter of right. From an order of a Single Judge passed under Article 226, a letters patent appeal

or an intra-court appeal is maintainable. But no such appeal is maintainable from an order passed by a Single Judge of a High Court in exercise of power under Article 227. In almost all the High Courts, rules have been framed for regulating the exercise of jurisdiction under Article 226. No such rule appears to have been framed for exercise of High Court's power under Article 227 possibly to keep such exercise entirely in the domain of the discretion of High Court.

49 (k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory."

11. It is the contention of the learned counsel for the petitioner - plaintiff that suit schedule property is within the jurisdiction and under HMDA region, house permission cannot be granted by village authorities namely Sarpanch/Panchayat but only by the HMDA and the respondent - defendant has presented certain documents which are fake, false, spurious and dubious, which is established by virtue of the report of the Tahsildar, Shankarpally, allegedly claiming that he is in possession of land in Survey No.692 to an extent of Ac.3-12 guntas in Janwada Village, Shankarpally Mandal, Ranga Reddy District. These are the matters which are to be gone into while deciding the main CRP itself. The primary question is whether CRP is maintainable under Article 227 of the Constitution of India?

12.1 Any person being aggrieved by an order passed under Section 340 of the Code of Criminal Procedure either refusing to make a

complaint or making a complaint, may prefer appeal to the Court to which the Court passing the order is sub-ordinate. Thus, against an order dismissing an application under Section 340 of the Code of Criminal Procedure, revision is not maintainable due to the bar, as provided under Section 341(2) of the Code of Criminal Procedure. Likewise if an order is passed under Section 341 of the Code of Criminal Procedure by the appellate Court the same is not revisable by the High Court. However, the High Court can invoke its inherent power under Section 482 of the Code of Criminal Procedure in an appropriate case, which has been, accordingly, upheld in the case of *Lalit Mohan v. Binoyendra Nath*, as reported in (1982) 3 SCC 219: AIR 1982 SC 785. Likewise when the order challenged in the appeal is one passed under Section 340 of the Code of Criminal Procedure by the sub-Court directing a complaint to be made to the concerned 1st Class Magistrate Court, then in view of first part of sub-Section (4) of Section 195 of the Code of Criminal Procedure read with Section 341 of the Code of Criminal Procedure, the appeal will lie to the District Court and, thus, an appeal directly presented to the High Court in such cases is not maintainable. See: *Darastul Khalif*⁸.

12.2 This original petition cannot be entertained under Article 227 of the Constitution of India. The petitioner wrongly filed an appeal before the wrong forum and obtained a judgment of dismissal. Though authorised under Section 340 of the Code of Criminal Procedure

enquiry was conducted and decision was taken by the civil court. Section 340 of the Code of Criminal Procedure empowers any court including civil court to conduct enquiry as provided therein and to make complaint before the proper court. A Criminal Appeal can be brought before the Sessions Court under Section 341 of the Code of Criminal Procedure only against an order passed by the Criminal Court under Section 340 of the Code of Criminal Procedure. When such order is passed by the civil court, the proper remedy is to file appeal against the said order before the appellate court on the civil side. Instead of filing a Civil Miscellaneous Appeal (CMA) before the civil appellate forum the petitioner wrongly filed a Criminal Appeal before the Sessions Court. True, it is, that the person functioning in both the courts is the same. But the two forums are different. One is District Court and the other is Court of Session, though handled by the same person. The petitioner cannot find justification by saying that he has preferred appeal before the same person. Appeal should be filed before the court and not before the person. In this case appeal will have to be filed before the court to which appeals ordinarily lie from the appealable decrees of the Munsiff's Court, Iringalakkuda. I find that this Original Petition cannot be entertained, and it is liable to be dismissed without admission. However, it is made clear that the petitioner can file a proper civil appeal before the proper court, subject to the law of limitation. If not filed in time, he will have to file

application to condone the delay, and such application will be considered on merits by the appellate court, and appropriate decision will be taken. See: V.A.Rocky⁹.

13. On careful reading of Section 341 of Cr.P.C which reads that any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or sub-section (2) of Section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of Section 195.

14. The impugned order is passed by the learned Junior Civil Judge – Metropolitan Magistrate at Chevella, Ranga Reddy District, the appellate Court is the Principal District Court at Ranga Reddy, appeal lies before the learned Principal District Court as per the decision cited by the learned counsel for the respondents – defendants stated supra in paragraph Nos.12.1 and 12.2.

15. The decisions cited by the learned counsel for the petitioner – plaintiff stated supra at paragraph Nos.10.1 and 10.2 are distinguishable from the facts of the case hence they are not applicable. This Court is not discussing the other contentions raised by the learned counsel on record apart from the decisions cited thereon in view of the fact that the CRP itself is not maintainable under Article 227 of the Constitution of India.

16. CRP filed by the petitioner – plaintiff is not maintainable in view of the specific bar under Section 341 of Cr.P.C. The petitioner - plaintiff can avail remedies by filing the appeal before the appropriate Court subject to the law of limitation.

17. With the above said observation, CRP is disposed of. There shall be no order as to costs.

Interim orders if any stands vacated, miscellaneous application/s shall stand closed.

Sd/- P.PONNA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Junior Civil Judge-cum-Metropolitan Magistrate at Chevella, Ranga Reddy District.
2. One CC to Sri Purnima Singh, Advocate [OPUC]
3. One CC to Sri Lohit Sannapaneni, Advocate [OPUC]
4. Two CD Copies

Kam/BA

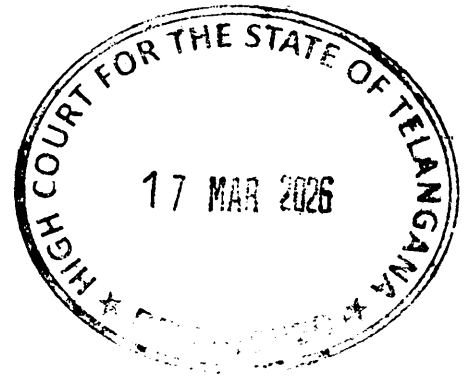


HIGH COURT

DATED: 27/02/2026

ORDER

CRP.No.2940 of 2023



**DISPOSING OF THE
CIVIL REVISION PETITION**

GNT
16/3/26