

IN THE COURT OF THE IV ADDL. CHIEF METROPOLITAN MAGISTRATE::
VISAKHAPATNAM

PRESENT: **Sri. K. Vasudeva Rao**
IV Addl. Chief Metropolitan Magistrate,
Visakhapatnam.

Thursday, the 3rd day of October, 2024
C.C.No.7274/2022

BETWEEN:

The State rep. by the Sub-Inspector of Police,
Muvvalavanipalem Police Station, Visakhapatnam City.

....COMPLAINANT

AND

A1: Siripurapu Karunakar S/o. Krupananda Rao, 43 years, R/o. Flat No. 314, B-Block, MVV Builders, KRM colony, Maddialapalem, Visakhapatnam

A2: Kondra Hari Gopala Krishna S/o. Late Hanumantha Rao, 45 years, R/o. 53-38-16/1, KRM Colony, Seethammadhara, Visakhapatnam.

....ACCUSED

This case came up before me on 30-09-2024 for final hearing in the presence of Ld. Senior Asst. Public Prosecutor for the State and of Sri. Ch. Parvatheesam, Ld. counsel for A1 & A2 and having stood over till this day for consideration, this court delivers the following :

J U D G M E N T

The State represented by the Sub-Inspector of Police, Muvvalavanipalem (herein after referred as MVP) Police Station filed charge sheet against A1 & A2 for the offence punishable under Section. 116, 153, 143, 120 b r/w 511 Indian Penal Code, 1860 (herein after referred as IPC) in Cr.No.422/2022 of Muvvalavanipalem PS.

2. The case of the prosecution in brief is:

On 29-08-2022, on credible information received by LW3-K.N.S.V. Prasad, MVP PS that accused and others are planning to participate in Chalo

Vijayawada protest program and formed themselves into unlawful assembly, LW3 along with other staff proceeded to Maddilapalem RTC depot at about 7:30 to 8:00 PM accused were detained under the cover of occurrence report and brought them to the police station and thereafter, LW3 registered case in Cr.No.422/2022, examined witness, recorded their statements and thereafter LW4-M.Sreenu, SI of Police served Sec-41 A Criminal Procedure Code, 1973 (herein after referred as Cr.P.C.) Cr.P.C notice to both the accused and after completion of investigation he filed charge sheet against accused.

3. Cognizance was taken under section 116, 153, 143, 120 b r/w 511 IPC against A1 & A2.

4. After appearance of accused, copies were furnished to them under section 207 Cr.P.C. and accused were examined under section 251 of Cr.P.C. to the substance of the acquisition made against them for which, accused pleaded not guilty and claimed to be tried.

5. In the course of trial, prosecution examined PWs.1 & 2 and got marked exhibits P1 & P2. Ld. Senior Asst. Public Prosecutor given up evidence of LW2-K.Suresh and LW3-K.N.S.V. Prasad

6. After closing prosecution evidence, accused were examined under Sec.313 Cr.P.C, on the incriminating material evidence available against them for which, they denied as false and reported no defence evidence.

7. Heard arguments on both sides. Perused entire material record.

8. Now the point for determination is:

Whether prosecution was able to bring home the guilt of A1 & A2 for the offence under section 116, 153, 143, 120 b r/w 511 IPC beyond all reasonable doubt?

Point:

9. To prove the case against accused, prosecution relied on oral evidence of PWs. 1 & 2 coupled with Exs. P1 & P2.

10. PW1-B.Govinda Rao Head Constable deposed that on 29-08-2022, at 5:30 PM on receiving credible information by LW3-K.N.S.V. Prasad they proceeded to RTC depot Maddilapalem and they observed 25 persons were

conducting Dharna demanding for pension and to abolish CPS and thereafter their inspector retained those persons under Ex.P1 occurrence report.

11. PW2-M.Srinu, Inspector police and the then SI of Police deposed that On 29-08-2022 at 9:30 PM on receiving credible information about dharna to be conducted against the then Hon'ble Chief Minister of Andhra Pradesh at his house at Vijayawada, LW3-K.N.S.V. Prasad along with his staff proceeded to Maddilapalem, RTC bus depot and they retained both A1 and A2 under the cover of occurrence report and they brought them to the police station and thereafter, case was registered under Ex.P2 and he took up investigation, examined witnesses and served Sec. 41-A Cr.P.C notice and later filed charge sheet against accused.

12. PW1 deposed that they went to the scene of offence at 5:30 PM, whereas PW2 deposed that they went to the scene of offence at 9:30 PM. On perusing Ex.P2 FIR the time of receiving information at column no. 3-b was noted as 8:30 PM and occurrence of offence at column no. 3-a was noted as 7:30 PM. Evidence of PW1 and PW2 are not in corroborating with regard to time of occurrence of incident and time of receiving information by the police for registration of the case. Hence, a strong suspicion raises over the case of prosecution.

13. PW1 admitted that he did not sign on Ex.P1. He also deposed that he do not have personal knowledge about information received by LW3. PW2 deposed that he do not have personal knowledge about alleged incident and he did not observe any previous criminal record against A1 & A2. Since, charge sheet was filed against A1 & A2 only and it failed to fulfill one of the important ingredient i.e., the number of persons for forming unlawful assembly are to be 5 or more, a strong doubt raises in the mind of this court on the case of prosecution. Admittedly, prosecution examined PWs. 1 & 2 alone to prove the case against A1 & A2. As PW1 signature is not found on Ex.P1, his presence at the scene of offence is doubtful. Since PW2 do not have personal knowledge about alleged incident and except PWs 1 & 2 no other witness was examined by the prosecution, this court finds that prosecution miserably failed to prove the

offence under section 116,153, 143,120-b r/w 511 IPC against A1 & A2 beyond all reasonable doubt. Accordingly point is answered.

14. In the result, A1 & A2 are found not guilty for the offence punishable under section - 116,153, 143,120-b r/w 511 IPC and accordingly, they are acquitted under section-255 (1) Cr.P.C. The bail bonds of A1 & A2 shall be in force for a period of 6 months under section-437-A Cr.P.C., to appear before appellate court, if any appeal is preferred.

Typed to my dictation by the personal assistant, corrected and pronounced by me in open court, on this the 3rd day of October, 2024.

xx Sd/- Sri. K.Vasudeva Rao
IV ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM.

APPENDIX OF EVIDENCE
WITNESS EXAMINED

For Prosecution:
PW1-B.Govinda Rao
PW2-M.Srinu

For Defence:
-None-

DOCUMENTS MARKED

For Prosecution:
Ex.P1 : Occurrence report dt.29-08-2022.
Ex.P2 : FIR in Cr.No.422/2022

For Defence
-Nil-

xx sd/- Sri. K.Vasudeva Rao
IV ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM

//true copy//

IV ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM

CALENDAR & JUDGMENT - DISTRICT : VISAKHAPATNAM
IN THE COURT OF IV ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT
VISAKHAPATNAM

CC No.7274/2022

Date of Offence	29-08-2022
Date of report or complaint	29-08-2022
Date of Appearance	08-02-2023
Date of Commencement of trial	02-09-2024
Date of Close of trial	30-09-2024
Date of Sentence/Order	03-10-2024
Explanation for delay	The delay is due to non production of witnesses by the Complainant.
Remarks	Nil
JUDGMENT IN CALENDAR CASE No.7274/2022 in Cr.No. 422/2022 of Muvvalavanipalem Police Station on the file of IV ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, VISAKHAPATNAM.	
Complainant	The State rep. by Sub-Inspector of Police, Muvvalavanipalem Police Station, Visakhapatnam.
Name of the accused, parentage, age, residence particulars A1: Siripurapu Karunakar S/o. Krupananda Rao, 43 years, R/o. Flat No. 314, B-Block, MVV Builders, KRM colony, Maddialapalem, Visakhapatnam A2: Kondra Hari Gopala Krishna S/o. Late Hanumantha Rao, 45 years, R/o. 53-38-16/1, KRM Colony, Seethammadhara, Visakhapatnam.	
Offence	Under section 116,153, 143,120-b r/w 511 IPC
Finding	A1 & A2 are found not guilty.
Result	In the result, A1 & A2 are found not guilty for the offence punishable under section - 116, 153, 143, 120-b r/w 511 IPC and accordingly, they are acquitted under section-255 (1) Cr.P.C. The bail bonds of A1 & A2 shall be in force for a period of 6 months under section-437-A Cr.P.C., to appear before appellate court, if any appeal is preferred.

xx sd/- Sri. K.Vasudeva Rao
IV ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM

//true copy//

IV ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM