

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE(JUNIOR DIVISION)-CUM-
JUDICIAL FIRST CLASS MAGISTRATE :: TIRUPATI**

Present :: **Smt. B.Vani Sree,**

Principal Civil Judge (Junior Division) -cum-Judicial First Class Magistrate

Monday, the 20th day of January, 2025

Calendar Case No.2175 of 2022

Between:

State, represented by :
Sub-Inspector of Police,
Chandragiri PS.
Cr.No. 221/2022 of Chandragiri PS.

... Complainant

And :

A. Munirathnam Naidu, 47 years, S/o Jayaram Naidu, r/o Door No.157,
Bhimavaram, Chandragiri Mandal, Tirupati District.

... Accused

This case is coming before me on 10-01-2025 for final hearing before me in the presence of Learned Assistant Public Prosecutor for the state and of Sri J. Dasaradh, learned counsel for accused and upon hearing both sides on record and having stood over for consideration till this day, this court delivered the following:-

J U D G M E N T

01. The Sub-Inspector of Police, Chandragiri police station laid a charge against the accused in Crime Number 221/2022 for the offences punishable under section 353 of Indian Penal Code.

02. The case of the prosecution in brief is as follows that:

On 13-05-2022 at about 10.30 AM as per the instructions of the Tahsilar, Chandragiri, in order to avoid encroachments of Gutta poramboke land an extent of area 146.18 cents about Ac.2.00 cents in S.No.423/1,

situated in Kondreddy Kandriga village revenue record made by the accused, LW1/Village Revenue Officer, Bhimavaram Village, Chandragiri Mandal along with LW2 and LW3 who are VRA of Bheemavaram Village, Chandragiri Mandal and Surveyor Village, Secretariat Office, Bheemavaram went to the scene of offence for erecting warning board on encroached land, then the accused caused obstruction to the LW1/defacto complainant, LW2 and LW3 while they were planting the warning board and also the accused came to Bheemavaram Village secretariat office and abused LW1 to LW3 in filthy language for planting the warning board in the encroachment land.

(ii) On 17-05-2022 at 6.30 PM, on receipt of the complainant from the defacto complainant a case in Cr.No.221/2022 U/Sec.353 IPC was registered by LW5/SI of Police, Chandragiri PS. During course of investigation LW5 examined LW1 to LW4 and recorded their statements, examined 1st and 2nd scene of offence, prepared rough sketches and on 20-05-2022 LW5 served notice to accused U/Sec.41-A Cr P C. After completion of investigation, LW5 filed charge sheet against accused for the offence U/Sec.353 IPC for deterring public servants LW1 to LW3 while they were discharging their legitimate duties. Hence the charge.

03. On 08-12-2022 in this case the cognizance was taken for the offence punishable under section 353 of Indian Penal Code against the accused.

04. On 24-05-2023, on appearance of the accused before the Court, copies of documents were furnished to him as required under section 207 of

Criminal Procedure Code. Accused was examined under section 251 of Criminal Procedure Code for the offence punishable U/Sec.353 IPC is read over and explained to the accused in Telugu, for which, he pleaded not guilty and claimed to be tried.

05. During the course of trial, the prosecution examined P.Ws.1 to P.Ws.4, got marked Exs.P1 to P6. The evidence of LW4/Podugu Sireesha was given up by prosecution. Hence, the prosecution side evidence was closed.

06. After closure of prosecution side evidence, on 12-11-2024 the accused was examined under section 313 Criminal Procedure Code by putting the incriminating circumstances appearing in the evidence of prosecution witnesses for which he denied the same and reported no defence evidence, hence defence evidence is closed.

07. Heard the arguments of learned Assistant Public Prosecutor and the learned defence counsel for accused. Perused the oral and documentary evidence on record.

08. **Now the points for determination are :**

1.Whether the prosecution has proved the guilt of the accused for the offence punishable against him U/Sec.353 IPC beyond reasonable doubt?

2. To what finding?

09. In order to substantiate its case, the prosecution has examined witnesses as P.W1 to P.W.4, got marked Exs.P1 to P6.

PW1 is the defacto complainant. PW2 is VRA. PW3 is Surveyor. police constable chandragiri PS. PW4 is Investigating Officer.

(ii) **Ex.P-1** is the report dated 13-05-2022. **Ex.P-2** is Sec.161 Cr P C examination of PW2. **Ex.P-3** is Sec.161 Cr P C examination of PW3. **Ex.P-4** is FIR in Cr.No.221/2022 for the offences U/Sec.353 IPC. **Ex.P-5** is rough sketch. **Ex.P-6** is another rough sketch.

10. The case of the prosecution is that accused noted herein obstructed PW1 to PW3 while they were discharging their official duties by preventing them while affixing prohibition board not to encroach the land as it is Government land. Hence accused is liable for punishment for the offences U/Sec.353 IPC.

11. The learned counsel for the accused submitted that the accused did not commit any offence and this is a false case foisted against him and the accused is no way concerned with this case. Therefore, there is no cogent and corroboration of the prosecution evidence. On the above grounds, the learned counsel for accused prayed this court to acquit the accused person under the charge leveled against him in the interest of justice.

12. The stand of accused is of total denial.

13. In view of rival contentions on both sides, the entire oral and documentary evidence is perused.

14. **Point No.1 :**

a) In order to bring the guilt of accused for offence punishable under section **353** of Indian Penal code, the prosecution has to establish the

following ingredients under section 349 or 350 of Indian Penal Code :

i) That PW1 and PW2 being a public servant must have been assaulted by accused or accused must have used criminal force against him while he was legally discharging his duties

15. PW1, M. Venkanna Naidu, deposed that on 13-05-2022 at about 10.30 AM LW2/D. Chenchiah/VRA came to him and stated him about the encroachment of Government land which is situated at Kondreddy Kandriga revenue village in S.No.423/1 for an extent of Ac.146.18 cents, out of that 2 acres were encroached by accused and the same was known to him through his VRA on 10-05-2022 and the same was informed to Tahsildar and he suggested them to put prohibition board in the said land. He deposed that on 13-05-2022 at about 10.45 AM he along with LW2/VRA and LW3/Surveyor went to the said land and affixed board in said land, at that time accused obstructed them for not affixing of said board in said land but they erected the same in the said land, after that they went to sachivalayam within five minutes and accused also reached there and abused them in filthy language and after that he informed the same to Tahsildar and he stated him to go to Police station and lodge a complaint, then he went to police station and lodged Ex.P-1 report.

(ii) In his cross examination he stated that he worked as VRO of Bheemavaram revenue village for a period of 4 years, at first time he registered this case in his entire service. He stated that the total extent in S.No.423/1 is Ac.146.18 cents. He admitted that he did not state in his

report/Ex.P-1 in which side of said extent the accused encroached the said 2 ares of land. He stated that in between 9 to 9.30 AM, PW2 informed him about the said encroachment on 10-05-2022, at that time he was present in Tahsildar office chandragiri and on 13-05-2022 they affixed the said board at about 10.30 AM. **He stated that there is a procedure with regarding to removal of encroachment by the Government and they did not issue any proceedings to that effect.** He stated that he is not having documentary proof to show that the said flexi board was manufactured as per his direction and there is no deal receipt of that board. He stated that they informed about the obstruction of accused by them from their official duties to the Tahsildar of Chandragiri and the same was stated before the police as well as mentioned in his report under Ex.P-1 and on 13-05-2022 at about 4.00 PM he gave Ex.P-1 to the police. He stated that he drafted Ex.P-1 in his own handwriting and their Tahsildar/LW4 endorsed on the said report Ex.P-1. He stated that the said endorsed complaint was filed before the police and they did not prepare any rough sketch with regarding to the encroached property and after one week police again examined and recorded his statement, PW2 statement and LW3 statement in their Tahsildar office.

16. PW2/D. Chenchiah, VRA Bheemavaram, deposed that accused levelled the Government land and the same was informed to PW1, after that as per instructions of MRO, they went to the said land for erecting the said board and they erected the same and went to sachivalayam, after that accused came to them and questioned about the said board and abused them

in filthy language. PW2 was declared as hostile by the prosecution. Inspite of cross examination made by learned APP nothing worthy elicited from his cross examination except marking his Sec.161 Cr P C statement as Ex.P-2.

17. PW3/D. Damodaram, Surveyor deposed that he know PW1 and PW2 as they are his colleagues and he know accused but he does not know about the facts of the case. PW3 was declared as hostile by the prosecution. Inspite of cross examination made by learned APP nothing worthy elicited from his cross examination except marking his Sec.161 Cr P C statement as Ex.P-3.

18. PW4/I. Hima Bindu, the then Sub-Inspector of Police, Chandragiri PS deposed that on 17-05-2022 at about 6.30 PM while she was present in the PS, PW1 came there and filed report under Ex.P-1, basing on which she registered Ex.P-4 as a case in Cr.No.221/2022 for the offence U/Sec.353 IPC, examined and recorded the statements of PW1 to PW3 and LW4/P. Sireesha and on the next day she rushed to the scene of offence at Kondreddikandrige village and prepared Ex.P-5 rough sketch and after that she rushed to Panchayati office Bhimavaram and prepared another rough sketch under Ex.P-6 and on 20-05-2022 accused surrendered before her and she served Sec.41-A Cr P C notice to him and after completion of investigation she laid charge sheet before the court.

(ii) In her cross examination she stated that as per Ex.P-1, PW1 lodge a report on 16-05-2022 and the alleged incident was occurred on 13-05-2022 and there is three days delay for lodging report by PW1 and the reason for delay is to discuss with the superior officers. She stated that PW1 did not

produce any proceedings from his superior officer. She stated that PW1 did not produce any record before her to show that he is on duty on the date of alleged incident and PW1 did not produce any documentary evidence to show that in S.No.423/1 to an extent of Ac.146.18 cents of kondreddikandriga village accounts is Government land and PW1 did not state either in the report or before police that on 10-05-2022 accused in which side encroached the said alleged two acres of land out of Ac.146.18 cents. She stated that PW1 did not file any photographs to show that the accused obstructed PW1 whenever he tried to affix a board in the said extent. She admitted that in the statement of witnesses LW1 to LW4 she put her signature and mentioned the date as 15-05-2022 and on the top of the said page statements mentioned the date as 17-05-2022 and she clarified that the said date was mentioned mistakenly. She denied the suggestion that she recorded and examined the said witnesses on 15-05-2022 but not 17-05-2022. She admitted that PW1 gave report with regarding to accused abused him in filthy language at panchayati office Bhimavaram and the accused has obstructed from the official duties of PW1 in Sy.No.423/1 at Kondreddikandriga Village and she prepared two rough sketches with regarding to the said Bhimavaram panchayathi office and kondreddikandriga village and she shown name of one Munikrishnaiah in the rough sketch / Ex.P-5 but she did not examine him as well as not shown him as witness. She stated that in the said panchayathi of Bhimavaram there are nearly 10 employees working and she did not examine the employees. She admitted that there are houses situated surrounding of the said panchayati

but she did not examine any independent witnesses in the said village.

19. On perusal of records, it discloses that PW1 is the VRO who lodged report under Ex.P-1 and set the law in to motion. His evidence discloses that on 13-05-2022 at about 10.30 AM LW2/D. Chenchaiyah/VRA came to him and stated him about the encroachment of Government land which is situated at Kondreddy Kandriga revenue village in S.No.423/1 for an extent of Ac.146.18 cents, out of that 2 acres were encroached by accused and the same was known to him through his VRA/PW2 on 10-05-2022 and the same was informed to Tahsildar and he suggested them to put prohibition board in the said land. He deposed that on 13-05-2022 at about 10.45 AM he along with VRA/PW2 and Surveyor/PW3 went to the said land and affixed board in said land, at that time accused obstructed them for not affixing of said board in said land but they erected the same in the said land, after that they went to sachivalayam within five minutes and accused also reached there and abused them in filthy language and after that he informed the same to Tahsildar and he stated him to go to Police station and lodge a complaint, then he went to police station and lodged Ex.P-1 report. It is elicited from the cross examination of PW1 that he did not state in his report/Ex.P-1 in which side of said extent the accused encroached the said 2 ares of land. It is further elicited from the cross examination of PW1 that in between 9.00 to 9.30 AM, PW2 informed him about the said encroachment on 10-05-2022, at that time he was present in Tahsildar office chandragiri and on 13-05-2022 they affixed the said board at about 10.30 AM.

20. In view of above evidence of PW1, the evidence of PW2 and PW3 have to be scrutinized in a careful circumspect for corroboration to the evidence of PW1. The evidence of PW2 discloses that accused levelled the Government land and the same was informed to PW1, after that as per instructions of MRO, they went to the said land for erecting the said board and they erected the same and went to sachivalayam, after that accused came to them and questioned about the said board and abused them in filthy language. Except that PW2 did not depose anything against the accused. He was declared as hostile by the prosecution. Inspite of cross examination made by learned APP nothing worthy elicited from his cross examination except marking his Sec.161 Cr P C statement as Ex.P-2. Likewise, the evidence of PW3 who is surveyor and who was present along with PW1 and PW2 on the date of alleged incident turned hostile to the case of prosecution by deposing that he does not know about the facts of the case. Infact it is the case of prosecution that accused deterred PW1 to PW3 who are public servants in discharging their official duties of erecting prohibition board in Government land.

21. Assuming for a moment that the accused trespassed and encroached in Government land, to disclose the same, no documentary evidence placed by the prosecution. Further it is elicited from cross examination of PW1 wherein he admitted that there is a procedure with regarding to removal of encroachment by the Government and they did not issue any proceedings to that effect. Non filing of any documentary proof

much less the proceedings of the revenue authorities or land documents regarding encroachment made by accused is fatal to the case of prosecution to connect the accused with the commission of offence. The revenue authorities including PW1 to PW3 ought to have followed the procedure by issuing proceedings to that effect. But no such proceedings filed before this court to substantiate the version of prosecution. Further no photographs were filed before this court to show that accused obstructed PW1 when he tried to affix a board in the said extent. Further it is elicited from the evidence of Investigating Officer/PW4 that PW1 did not state either in his report on before the police that on 10-05-2022 the accused in which side encroached the said alleged two acres of land out of Ac.146.18 cents. Basing on the sole testimony of PW1 which is with full of inconsistencies and contradictions and in the absence of independent corroboration of material witnesses and in view of hostile testimony of PW2 and PW3 who are alleged to have witnessed the occurrence and eye witnesses/victims, it is highly impossible to connect the accused with the commission of offence.

22. Further non examination of independent witnesses nearby the two scene offences is fatal to the case of prosecution. Further delay in lodging report is fatal to the case of prosecution.

23. The remaining evidence available is the evidence of Investigating Officer who deposed chronological events of her investigation. The Investigating Officer failed to examine the independent witnesses at the scene of offence covered under Ex.P-5 and Ex.P-6 rough sketch so as to elicit

true facts. Non examination of independent witnesses by Investigating Officer is fatal to the case of prosecution. Since there are no independent witnesses to the occurrence and there are no specific overt acts attributed against the accused with regard to the commission of offence alleged against accused, it cannot be said that the prosecution has proved the guilt of accused beyond reasonable doubt for the offence U/Sec.353 of Indian Penal Code. Further there are several contradictions and inconsistencies in the evidence of PW1, PW2 and PW4. Hence the version of PW1, PW2 and PW4 is unbelievable and not creditworthy. Therefore the prosecution miserably failed to prove the ingredients U/Sec.353 of Indian Penal Code.

24. The cases of this nature is a double edge weapon. Though on one hand it provides the motive, on the other hand the possibility of false implication cannot be ruled out.

25. Therefore, the court holds that the prosecution failed to establish the guilt of accused for the offence punishable U/Sec.353 of Indian Penal Code. This point is answered accordingly against the prosecution and in favour of the accused person.

26. In the light of the above facts and circumstances, it goes to show that the prosecution has utterly failed to place sufficient material evidence to connect the accused for the offence U/Sec.353 of Indian Penal Code. Hence, the prosecution has failed to bring home the guilt of the accused beyond reasonable doubt, as such he is entitled for acquittal under section 255(1) of Cr.P.C. Accordingly, this point is answered against the prosecution.

27. **Point No.2:**

In view of my finding in Point No.1, the Accused is entitled to be extended benefit of reasonable doubt. This point is answered accordingly against the prosecution and in favour of the accused.

28. In the result, the accused is **found not guilty** for the offences under sections 353 of IPC and he is acquitted for the offence U/Sec.255(1) Cr P C. The bail bond of the accused shall remain in force for a period of six months from the date of this judgment as per section 437-A of the Criminal Procedure Code.

The unmarked non valuable case property if any shall be destroyed after expiry of appeal time.

Typed to my dictation by the Stenographer, corrected, signed and pronounced by me in the Open Court on this the **20th day of January, 2025.**

Sd/- B. Vanisree

PRINCIPAL CIVIL JUDGE (JUNIOR DIVISION)
-CUM- J.F.C.MAGISTRATE,
TIRUPATI.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Prosecution

PW1 : M. Venkanna Naidu.

PW2 : D. Chenchiah.

PW3 : D. Damodaram.

PW4 : I. Hima Bindu, SI of Police

For Defence:

Nil

DOCUMENTS MARKED

For Prosecution:

Ex.P-1 : Report dated 13-05-2022.

Ex.P-2 : Sec.161 Cr P C examination of PW2.

Ex.P-3 : Sec.161 Cr P C examination of PW3.

Ex.P-4 : FIR in Cr.No.221/2022 for the offences U/Sec.353 IPC.

Ex.P-5 : Rough sketch.

Ex.P-6 : Another rough sketch.

For Defence:

NIL

// Material objects marked //

NIL

Sd/- B. Vanisree
PCJ cum JMFC .

// True copy //

PRINCIPAL CIVIL JUDGE (JUNIOR DIVISION)
-CUM- J.F.C.MAGISTRATE,
Tirupati.

**Copy of Judgment in CC No.2175/2022
dated 20-01-2025**

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE(JUNIOR DIVISION)-CUM-
JUDICIAL FIRST CLASS MAGISTRATE :: TIRUPATI**

CALENDER IN C.C.No.2175/2022

1.	Date of offence	13-05-2022
2.	Date of Report or complaint	17-05-2022
3.	Date of taken on file	08-12-2022
4.	Date of apprehension of accused	20-05-2022
5.	Date of release on bail	20-05-2022
6.	Date of commencement of trial	15-03-2024
7.	Date of close of trial	10-01-2025
8.	Date of Sentence or Order	20-01-2025
9.	Complainant	State, represented by : Sub-Inspector of Police, Chandragiri PS. Cr.No.221/2022 of Chandragiri PS, Tirupati.
10	Description of accused	A. Munirathnam Naidu, 47 years, S/o Jayaram Naidu, r/o Door No.157, Bhimavaram, Chandragiri Mandal, Tirupati District.
11	Section of Law	U/Sec.353 IPC.
12	Plea of Accused	Pleaded not guilty.
13	Finding of Court	Found not Guilty.

14. Sentence or Order :

In the result, the accused is **found not guilty** for the offences under sections 353 of IPC and he is acquitted for the offence U/Sec.255(1) Cr P C. The bail bond of the accused shall remain in force for a period of six months from the date of this judgment as per section 437-A of the Criminal Procedure Code.

The unmarked non valuable case property if any shall be destroyed after expiry of appeal time.

15. Explanation for delay and Remarks:

This case was taken on file on 08-12-2022. On 24-05-2023 copies furnished to the accused and he was examined under section 251 of Criminal Procedure Code and the accusation punishable U/Sec.353 IPC against accused is read over and explained to the accused in Telugu, for which, accused pleaded not guilty and claimed to be tried. On behalf of the prosecution, P.Ws.1 to 4 are examined, Exs.P1 to P6 got marked. After closure of prosecution side evidence, on 12-11-2024 accused was examined under Section 313 of Criminal Procedure Code by examining the incriminating

portion of prosecution evidence in question form, in Telugu, for which he denied and reported no defence evidence, hence defence evidence is closed. Heard the arguments of learned APP and learned counsel. Judgment pronounced in open court on 20-01-2025. Hence, the delay.

SD /- B. Vanisree
Principal Civil Judge (Junior Division)
Judicial Magistrate of I Class,
Tirupati.

Copy submitted to :

***The Hon'ble Chief Judicial Magistrate-cum-Prl. Assistant Sessions Judge,
Chittoor.***

// True copy //

Principal Civil Judge (Junior Division)
Judicial Magistrate of I Class,
Tirupati.