



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

[3521]

WEDNESDAY, THE TWENTY FIRST DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 390/2026

Between:

1. VADIGINENI NAGESWARA RAO, S/O. LATE VADIGINENI VEERAAIAH,
R/O. 15-31-VII-L-43, VII PHASE, NEAR HINDU PROJECT. KPHB
COLONY, KUKATPALLY, HYDERABAD.
2. VADIGINENI VARALAKSHMI, W/O. VADIGINENI NAGESWARA RAO,
R/O. 15-31-VII-L-43, VII PHASE, NEAR HINDU PROJECT, KPHB
COLONY, KUKATPALLY, HYDERABAD.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC
PROSECUTOR HIGH COURT OF ANDHRA PRADESH, AMARAVATHI
2. THE SHO, TALLAPUDI PS, EAST GODAVARI DISTRICT,
3. VADIGINENI NAGA MOWNIKA DEVI, W/O. LATE VADIGINENI
CHAITANYA, AGED ABOUT 30 YEARS, TIRUGUDUMETIA VILLAGE,
TALLAPUDI MANDAL. EAST GODAVARI DISTRICT

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

RAJA MANURI VENKATA SUMANTH

Counsel for the Respondent/complainant(S):

PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The Criminal Petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.,')/Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS') seeking to quash the proceedings against the petitioners/Accused Nos.1 and 2 in Crime No.02 of 2026 of Tallapudi Police Station, East Godavari District, registered for the alleged offences punishable under Section 85 read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for brevity, the BNS').

2. Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor. Perused the record.

3. As seen from the record, the alleged offences levelled against the petitioners/Accused Nos.1 and 2 are punishable with imprisonment for less than seven (07) years.

4. In this regard, it is apposite to mention the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**¹, wherein a detailed guidelines were issued at Para Nos.11 and 12, for arresting a person, which are being reproduced herein below:-

11.Our endeavor in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

¹(2014) 8 SCC 273

a).All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.');

b)All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);

c) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

d) The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;

e) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

f) Notice of appearance in terms of Section 41-A of Cr.P.C be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

g) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, he shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

h) Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12.We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

5. The similar view is also reiterated by the Hon'ble Apex Court in **Md. Asfak Alam v. the State of Jharkhand**², which also reiterated the guidelines laid down in the case of *Arnesh Kumar*.

6. In the light of the law laid down in the case of *Arnesh Kumar* and *Md. Asfak Alam*, the investigating officer is under legal obligation to proceed in accordance with law, but he shall follow the procedure prescribed under Sections 41 and 41(A) of 'the Cr.P.C.,' (now Sections 35 and 35(3) of 'the B.N.S.S.,' 2023). The petitioners are obliged to render their fullest cooperation in the ongoing investigation.

7. In the result, the Criminal Petition is disposed of directing the Investigating Officer to comply with Section 35(3) of 'the BNSS'/41-A of 'the Cr.P.C.,' and to strictly follow the directions issued in the cases of *Arnesh Kumar* and *MD. Asfak Alam*.

As a sequel, Miscellaneous petitions, if any pending, shall stand closed.

DR. Y. LAKSHMANA RAO, J

Date: 21.01.2026
RSI

²(2023) 8 SCC 632

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THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION No.390 of 2026

Date: 21.01.2026

RSI