



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

[3521]

**TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NOS.381,386,747&888 OF 2026

1.CRIMINAL PETITION NO: 381/2026

Between:

1.MANDAPATI CHIRANJEEVI VENKATA VENU GOPALAKRISHNAM
RAJU, S/O. LATE MANDAPATI VENKATA RAJU, AGED ABOUT 45
YEARS,R/O. FLAT NO.304, PLOT NOS.361, 362, PRASANTH
NAGAR,VANASTHALIPURAM, HYDERABAD - 500 070.

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS
PUBLIC PROSECUTOR, CLO HIGH COURT OF ANDHRA PRADESH,
NELAPADU AT AMARAVATI GUNTUR DISTRICT.

2.THE STATION HOUSE OFFICER, CID POLICE STATION,
MANGALAGIRI,GUNTUR DISTRICT

3.B RAJASEKHARAM, REGIONAL MANAGER, REGION-V,REGIONAL
BUSINESS OFFICE, STATE BANK OF INDIA,3-19-8/9, 1ST FLOOR,
BHUPAL PLAZA,BHUPAL NAGAR, BESIDE BHASHYAM
SCHOOL,TADEPALLIGUDEM - 534 101,WEST GODAVARI DISTRICT

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

1.JAMI MADHAVI

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

2.CRIMINAL PETITION NO: 386/2026**Between:**

- 1.SRI CHENNU RAMA KRISHNA, S/O RAMAYYA,AGED ABOUT 47 YEARS. OCCUPATION PVT. EMPLOYEE,R/O H.NO. 2-69, RAMALAYAM, DUSANAPUDI VILLAGE,VEERAVASARAM MANDAL, WEST GODAVARI DISTRICT.
- 2.SRI NEDURI GANAPATI, S/O N. RAMA KRISHNARAO,AGED ABOUT 49 YEARS. OCCUPATION PVT. EMPLOYEE,R/O H.NO.12-03-41/1, AYYAGARI STREET,GUNUPUDI, BHIMAVARAM, WEST GODAVARI DISTRICT.

...PETITIONER/ACCUSED(S)

AND

- 1.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC PROSECUTOR,CID,3HIGH COURT OF ANDHRA PRADESH,NELAPADU AT AMARAVATI, GUNTUR DISTRICT.
- 2.THE STATION HOUSE OFFICER, CID POLICE STATION, MANGALAGIRI,GUNTUR DISTRICT.
- 3.B RAJASEKHARAM, S/O B. RAM MOHAN BHARADWAJ,AGED ABOUT 43 YEARS, REGIONAL MANAGER, R-VREGIONAL BUSINESS OFFICE,STATE BANK OF INDIA,3-19-8/9, 1ST FLOOR, BHUPAL PLAZA,BHUPAL NAGAR, BESIDE BHASHYAM SCHOOL,TADEPALLIGUDEM-534101,WEST GODAVARI DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

1.JAMI MADHAVI

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

3.CRIMINAL PETITION NO: 747/2026**Between:**

- 1.MOHD GOUSE SHARIEF, S/O MOHD., DADA MOHAMMAD MIYASHARIEF, AGED 28 YEARS, OCC DAILY LABOUR, R/O 3-221, WATERTANK ROAD, SITARAMPURAM POST, SITARAMPURAM, NARSAPURAMMANDAL, WEST GODAVARI DISTRICT-534280- A2.
- 2.CHINNAM KAMAL HASAN, S/O HENRY, AGED 46 YEARS, OCCDAILY LABOUR, R/O DR.NO. 22-1-27/4,WARD NO. 21, CHINNAM VARISTREET, PEDAPETA, BHIMAVARAM, WEST GODAVARI DISTRICT-534201. -A3.
- 3.PENDRA DURGA RAO, S/O PEDHIRAJU, AGED 30 YEARS, OCCDAILY LABOUR, R/O DR.NO. 5-42/3, SITARAMPURAM POST,SITARAMPURAM, NARSAPURAM MANDAL, WEST GODAVARI DISTRICT -534280-A4.

...PETITIONER/ACCUSED(S)**AND**

- 1.THE STATE OF ANDHRA PRADESH, REP BY ITS SPECIAL PUBLIC PROSECUTOR CID,HIGH COURT OF ANDHRA PRADESH,NELAPADU AT AMARAVATI, GUNTUR DISTRICT-522201.
- 2.THE STATION HOUSE OFFICER, CID POLICE STATION, MANGALAGIRI,GUNTUR DISTRICT- 522503.
- 3.B RAJASEKHARAM, S/O B. RAM MOHAN BHARADWAJ,AGED ABOUT 43 YEARS. REGIONAL MANAGER, R-V,REGIONAL BUSINESS OFFICE, STATE BANK OF INDIA,3-19-8/9, 1ST FLOOR, BHUPAL PLAZA,BHUPAL NAGAR, BESIDE BHASHYAM SCHOOL,TADEPALLIGUDEM-534101, WEST GODAVARI

...RESPONDENT/COMPLAINANT(S):**Counsel for the Petitioner/accused(S):**

- 1.JAMI MADHAVI

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

4.CRIMINAL PETITION NO: 888/2026

Between:

1.KAVALI DHANA LAKSHMI, D/O MADEMETIA RAMA MURTY, AGED 55 YEARS, OCC. HOUSE WIFE, R/O 3-60, MAIN ROAD, AGARTHIPALEM, AGARRU, NARASAPURAM MANDAL, WEST GODAVARI DISTRICT-534280- A1.

...PETITIONER/ACCUSED

AND

1.THE STATE OF ANDHRA PRADESH, REP BY ITS SPECIAL PUBLIC PROSECUTOR (CID), HIGH COURT OF ANDHRA PRADESH, NELAPADU AT AMARAVATI, GUNTUR DISTRICT- 522201.

2.THE STATION HOUSE OFFICER, CID POLICE STATION, MANGALAGIRI, GUNTUR DISTRICT- 522503.

3.SRI B RAJASEKHARAM, S/O B. RAM MOHAN BHARADWAJ, AGED ABOUT 43 YEARS. REGIONAL MANAGER, R-V, REGIONAL BUSINESS OFFICE, STATE BANK OF INDIA, 3-19-8/9, 1ST FLOOR, BHUPAL PLAZA, BHUPAL NAGAR, BESIDE BHASHYAM SCHOOL, TADEPALLIGUDEM-534101, WEST GODAVARI DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

1.PALLA BALU ANIL KUMAR

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

The Court made the following:

COMMON ORDER:

Criminal Petition Nos.381, 386, 747 and 888 of 2026 are heard and disposed of by this common order, though they arise out of different crimes. The petitioners/accused in the respective crimes are different, however, the complainants/respondents are one and the same in all the cases.

2. The Criminal Petition No.381 of 2026 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 proceedings against the Petitioner/Accused No.2 in Cr.No.38 of 2022 on the file of the CID Police Station, Mangalagiri, Guntur District, registered for the alleged offences punishable under Sections 420, 403 and 409 read with 120-B of the Indian Penal Code, 1860 (for brevity 'the IPC') and Section 13(2) of Prevention of Corruption Act, 1988 (for brevity, 'the P.C Act').

3. The Criminal Petition No.386 of 2026 has been filed under Section 482 of 'the Cr.P.C.)/Section 528 of 'the BNSS' seeking to quash proceedings against the Petitioner/Accused No.2 in Cr.No.40 of 2022 on the file of the CID Police Station, Mangalagiri, Guntur District, registered for the alleged offences punishable under Sections 420, 403 and 409 read with 120-B of 'the IPC' and Section 13(2) of 'the P.C Act'.

4. The Criminal Petition Nos.747 and 888 of 2026 have been filed under Section 482 of 'the Cr.P.C.)/Section 528 of 'the BNSS' seeking to quash proceedings against the Petitioners/Accused Nos.1 to 4 in Cr.No.21 of 2022 on the file of the CID Police Station, Mangalagiri, Guntur District,

registered for the alleged offencespunishable under Sections 420, 403 and 409 read with 120-B of 'the IPC' and Section 13(2) of 'the P.C Act'.

5. Heard the learned counsel for the Petitioners and the learned Assistant Public Prosecutor. Perused the record.

6. As seen from the record, the petitioners, along with bank officials and the approved valuer, allegedly entered into a criminal conspiracy to dishonestly obtain agricultural loans from the State Bank of India, Ganapavaram Branch, under the Kisan Credit Card/Agri Asset Backed Loan Scheme for pisciculture by suppressing prior loans on the same leased fish tanks, enabling multiple financing, inflating collateral value, and diverting loan amounts, thereby causing wrongful loss to the bank and wrongful gain to themselves, attracting offences under Sections 420, 403, 409 read with 120-B of 'the I.P.C.,' & Section 13(2) of 'the P.C Act'.

7. The Hon'ble Apex Court in **Delhi Race Club (1940) Ltd. v. State of U.P.**,¹ at paragraph Nos.44 & 49 held as under:

"44. At the most, the Court of the Additional Chief Judicial Magistrate could have issued process for the offence punishable under Section 420IPC i.e. cheating but in any circumstances no case of criminal breach of trust is made out. The reason being that indisputably there is no entrustment of any property in the case at hand. It is not even the case of the complainant that any property was lawfully entrusted to the appellants and that the same has been dishonestly misappropriated. The case of the complainant is plain and simple. He says that the price of the goods sold by him has not been paid. Once there is a sale, Section 406IPC goes out of picture. According to the complainant, the invoices raised by him were not cleared. No case worth the name of cheating is also made out.

49. From the aforesaid, there is no manner of any doubt whatsoever that in case of sale of goods, the property passes to the purchaser from the seller when the goods are delivered. Once the property in the goods passes to the purchaser, it cannot be said that the purchaser was entrusted with the property of the seller. Without entrustment of property, there cannot be any criminal breach of trust. Thus, prosecution of cases on charge of criminal breach of trust, for failure to pay the consideration amount in case of sale of

¹(2024) 10 SCC 690

goods is flawed to the core. There can be civil remedy for the non-payment of the consideration amount, but no criminal case will be maintainable for it. [See : Lalit Chaturvedi v. State of U.P. [Lalit Chaturvedi v. State of U.P., (2024) 12 SCC 483 : 2024 SCC OnLine SC 171] and Mideast Integrated Steels Ltd. v. State of Jharkhand [Mideast Integrated Steels Ltd. v. State of Jharkhand, 2023 SCC OnLineJhar 301]

8. The Hon'ble Apex Court in **Arshad Neyaz Khan v. State of Jharkhand**², at paragraph No.21 held as under:

"21. Furthermore, it is pertinent to mention that if it is the case of the complainant/respondent No. 2 that the offence of criminal breach of trust as defined under Section 405 IPC, punishable under Section 406 IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined in Section 415, punishable under Section 420 IPC. This Court in Delhi Race Club (1940) Limited v. State of Uttar Pradesh, (2024) 10 SCC 690 observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriates the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. Consequently, the complaint cannot contain both the offences that are independent and distinct. The said offences cannot co-exist simultaneously in the same set of facts as they are antithetical to each other."

9. Section 406 of 'the I.P.C.,' deals with criminal breach of trust, which presupposes lawful entrustment of property followed by dishonest misappropriation or conversion. In contrast, Section 420 of 'the I.P.C.,' addresses cheating and dishonestly inducing delivery of property, which requires deception at the inception of the transaction. Thus, while Section 406 of 'the I.P.C.,' arises from a breach of an existing fiduciary relationship, Section 420 of 'the I.P.C.,' is predicated upon fraudulent inducement at the very outset. The two offences, therefore, operate in distinct spheres.

10. On perusal of the record, all the alleged offences levelled against the Petitioners are punishable with imprisonment for less than seven (07) years.

²2025 SCC OnLine SC 2058

Therefore, there exists a prima facie case to consider the request of the Petitioner under Section 528 of 'the BNSS'. Nonetheless, the circumstances of the case necessitate a thorough and comprehensive investigation. The voice of the de-facto complainant cannot be stifled at the threshold.

11. In **N.Raghavender v. State of Andhra Pradesh**³ the Hon'ble Apex Court observed that prosecution had failed to prove charges under Section 409, 420, and 477A of 'the I.P.C.,' and Section 13(2) read with Section 13(1)(d) of 'the P.C Act.,' on the ground that no financial loss was caused to the bank, or to any customer; no conspiracy was established; the bank official committed gross misconduct by misusing his position, by acting himself in dereliction of his duties, but there was no criminal misconduct fall under the ambit of Section 409, 420 and 477A of 'the I.P.C.'

12. Furthermore, **K. Bharathi Devi v. State of Telangana**⁴ at para No.34 it is held as under:

"34...It has been held that there are certain offences which overwhelmingly and predominantly bear civil flavor having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or a family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, the High Court would be justified in quashing the criminal proceedings, even if the offences have not been made compoundable."

13. Indeed, the Hon'ble Supreme Court, in **Practical Solutions Inc. v. State of Telangana**, Criminal Appeal No.353 of 2026 (arising out of SLP (Criminal) Diary No.953 of 2026), on dated 19.01.2026 has held as follows:

³ CrI.A.No.5 of 2010 dated 13.12.2021

⁴ (2024) 10 SCC 384

“We also take notice of the fact that the petition before the High Court was to quash the FIR. In a petition where quashing of the FIR is prayed for, the High Court should not have passed an order directing the Investigating Officer to comply with Section 41-A of the Code of Criminal Procedure, 1973, because it indirectly amounts to granting a relief which the High Court could have considered only if a prima facie case for quashing of the FIR is made out.”

14. The Hon’ble Supreme Court, in **Satender Kumar Antil v. Central Bureau of Investigation**⁵, wherein at paragraph No.33, it is held as under:

33. On the basis of the interpretation given by us, we conclude as follows:

a. An arrest by a police officer is a mere statutory discretion which facilitates him to conduct proper investigation, in the form of collection of evidence and, therefore, shall not be termed as mandatory.

b. Consequently, the police officer shall ask himself the question as to whether an arrest is a necessity or not, before undertaking the said exercise.

c. For effecting an arrest, qua an offence punishable with imprisonment up to 7 years, the mandate of Section 35(1)(b)(i) of the BNSS, 2023 along with any one of the conditions mentioned in Section 35(1)(b)(ii) of the BNSS, 2023 must be in existence.

d. A notice under Section 35(3) of the BNSS, 2023 to an accused or any individual concerned, qua offences punishable with imprisonment up to 7 years, is the rule.

e. Even if the circumstances warranting an arrest of a person are available in terms of the conditions mentioned under Section 35(1)(b) of the BNSS, 2023, the arrest shall not be undertaken, unless it absolutely warranted.

f. Power of arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023, pursuant to a notice issued under Section 35(3) of the BNSS, 2023 is not a matter of routine, but an exception, and the police officer is expected to be circumspect and slow in exercising the said power.

15. However, in this regard, it is apposite to mention the Hon’ble Apex Court in **Arnesh Kumar v. State of Bihar**⁶, wherein a detailed guidelines

⁵Special Leave Petition (Crl.) No.5191 of 2021, dated 15.01.2026

⁶(2014) 8 SCC 273

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:

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.

16. The similar view is also reiterated by the Hon'ble Apex Court in **Md.Asfak Alam v. the State of Jharkhand**⁷, which also reiterated the guidelines laid down in the case of **Arnesh Kumar**.

17. In the light of the law laid down in the case of **Satender Kumar Antil, 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.

18. In the result, the Criminal Petitions are 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 **Satender Kumar Antil, Arnesh Kumar** and **MD. Asfak Alam**. If it is noticed in the course of investigation that the petitioners have committed any offence which is punishable with imprisonment beyond seven years, the investigating officer is at liberty to proceed in accordance with law.

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

DR. Y. LAKSHMANA RAO, J

Date: 10.02.2026
PRA

⁷(2023) 8 SCC 632

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THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NOS.381, 386, 747&888 OF 2026

Date:10.02.2026

PRA