

APHC010543722025



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

[3396]

FRIDAY, THE TWENTY FOURTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 10590/2025

Between:

1. SRI GADDE TIRUPATI RAO, S/O. SAMBASIVA RAO AGED 48 YEARS, R/O. FLAT NO.402, GOLDEN HOMES, KRISHNA NAGAR, GUNTUR TOWN AND DISTRICT.
2. AARE SIVA REDDY,, S/O. NAGI REDDY, AGED 55 YEARS, R/O. KALANJALI APTS, PENT HOUSE, MADHU GARDENS, MOGHALRAJAPURAM, VIJAYAWADA.
3. RAMISETTI VEERA SWAMY,, S/O. (LATE) RANGA RAO, AGED 55 YEARS, R/O. D.NO.40-15/2-15, ROAD NO.2, OPP EFFTRONICS, BRUNDAVAN COLONY, VIJAYAWADA.
4. NANNAPANENI SEETHARAMA RAJU,, S/O. LAKSHMI NARAYANA, AGED 37 YEARS, R/O. D.NO.9-65, GOTTIMUKKALA ROAD, KANCHIKACHERLA V AND M, KRISHNA DIST.
5. BHOGINENI RAVINDRA RAO,, S/O. RAJA GOPALA RAO AGED 62 YEARS, R/O. D.NO.54-16-11 AND 12, FLAT NO.401, PARVATHI ENCLAVE, LOYOLA COLLEGE ROAD, VIJAYAWADA.
6. KOGANTI RAMESH ANKINEEDU,, S/O. GANDHI BABU, AGED 46 YEARS, R/O. D.NO.58-3-1-18/2, 1ST FLOOR, PANTAKALAVA ROAD, PATAMATA, VIJAYAWADA.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.
2. G FRANCIS, S/O. NOT KNOWN, HC-652, L-TOWN POLICE STATION VIJAYAWADA CITY.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

1. GINJUPALLI SUBBA RAO

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

The Court made the following:

ORDER

This petition is filed under Section 482 of Cr.P.C read with Section 528 of BNSS., by the petitioners/A1 to A6 seeking to quash the proceedings against them in C.C.No.52 of 2023 on the file of Chief Metropolitan Magistrate, Vijayawada, which was taken cognizance for the offences under Sections 143, 188 & 341 r/w 149 of IPC.

2. The case of the prosecution is that on 23.12.2019, the petitioners/A1 to A6 were found preparing to conduct a staged Dharna with regard to the Government's decision to set-up 3-Capitals near the house of the Endowment Minister forming an unlawful assembly without having any prior permission from the concerned, thereby, the A1 to A6 committed offences by promoting enmity against the Government and obstructed the public way. Hence, the present complaint is lodged by the police under Sections 143, 188 & 341 r/w 149 of IPC and registered a case in Crime No.341 of 2019.

3. Heard learned counsel for petitioners and learned Assistant Public Prosecutor for the respondents.

4. The main plank of argument of learned counsel for petitioners is that under Section 195 of Cr.P.C., the cognizance for the offences punishable under Section 172 to 188 (both inclusive) of the Indian Penal Code can be

taken only on the complaint in writing of the public servant concerned but not on the charge sheet filed by the police. Due to this procedural irregularity, the criminal proceedings in C.C.No.50 of 2019 are not maintainable under law. To buttress his argument, he relied upon the judgment of this Court in *Paiaavula Keshavulu v. State of Andhra Pradesh* and another. The relevant portion of the said order reads as under:

*“.... In any event, the main offence is under Section 188 IPC and the offence alleged under Section 283 IPC is only incidental to the main offence. The main offence, as already stated, is allegedly disobedience to the orders duly promulgated by the Director General of Police. Section 195 of the Cr.P.C. lays down that no Court shall take cognizance of any offence punishable under Section 172 to 188 (both inclusive) of the Indian Penal Code, except on the complaint in writing of the public served concerned or of some other public servant to whom he is administratively subordinate. Here, there is no complaint filed by any public servant. The Sub-Inspect of Police filed the charge sheet. In *Daulat Ram v. State of Punjab*, AIR 1962 SC 1206, the Supreme Court held that the prosecution under Section 182 must be on a complaint in writing by the Tahsildar (public servant). In view of that absolute bar against the Courts for taking cognizance of the offence punishable under Section 182 of the IPC, except in the manner provided by Section 195 of the Cr.P.C., the judgment equally applies to the offence under Section 188 also. In this case, there is no complaint in writing by the public servant concerned or by some other public servant to whom he is administratively subordinate. Therefore, in view of the bar under Section 195(1)(a) of the Cr.P.C., the learned Magistrate ought not to have taken cognizance of the offence punishable under Section 198 IPC on the report submitted by the Sub- Inspector of Police, Gooti Police Station. Therefore, the cognizance is taken contrary to the specific bar envisaged under Section 195(1)(a) of the Cr.P.C.”*

5. Needless to emphasize that the above judgment squarely applies to the facts of the present case. In this case also the main offence is under Section 188 IPC and other offences are incidental to the said offence.

Therefore, continuation of the criminal proceedings would amount to abuse of process of the court.

6. Accordingly, this criminal petition is allowed. As a sequel, miscellaneous petitions pending consideration, if any, in this case shall stand closed.

Date:24.10.2025
ARB

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

299

HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Criminal Petition No.10590 of 2025

Dt.24.10.2025

ARB