

APHC010271152024



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

[3396]

THURSDAY, THE TWENTY THIRD DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL REVISION CASE NO: 542/2024

Between:

1. CHINTHA VENKATA SIVA PRASAD REDDY @ SIVA REDDY, S/O PRABHU SRINIVASA REDDY, AGE ABOUT 35 YEARS, R/O D.NO.10-13-7/16, NEAR WOMENS COLLEGE, OLD TOWN, TANUKU, WEST GODAVARI DISTRICT

...PETITIONER

AND

1. KONALA SATISH, S/O MANIKYALA REDDY, AGE ABOUT 48 YEARS, OCC- BUSINESS, R/O D.NO.5-42, PEDDA VEEDHI, MARTERU, PENUMANTRA MANDAL, WEST GODAVARI DISTRICT.

2. THE STATE OF A P, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.

...RESPONDENT(S):

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the CriminalRevisionCase, the High Court may be pleased to may be pleased to allow the Revision by setting aside the order dated 13-06-2024 passed in CrI.M.P.No.1516 of 2024 in CC.No.243 of 2020, on the file of the learned Special Magistrate, Tanuku and consequently dismiss the CrI.M.P.No.1516 of 2024 and pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

may be pleased to stay all further proceedings pursuant to the orders dated 13-06-2024 passed in CrI.M.P.No.1516 of 2024 in CC.No.243 of 2020, on the file of the Special Magistrate, Tanuku, pending disposal of Revision and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to extend the interim order dated 03.07.2024 passed by this Hon'ble Court in IA.No.1 of 2024 in CrI.RC.No.542 of 2024, until further orders and pass

Counsel for the Petitioner:

1.K V L NARASIMHA RAO

Counsel for the Respondent(S):

1.PUBLIC PROSECUTOR

2.ANAND KUMAR KOCHIRI

The Court made the following:

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA**CRIMINAL REVISION CASE NO: 542/2024****JUDGMENT:**

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., seeking to set aside the order dated 13.06.2024 passed in CrI.M.P.No.1516 of 2024 in C.C.No.243 of 2020 by the learned Special Magistrate, Tanuku.

2. The case of the revision petitioner/accused is that the learned Magistrate erred in allowing the petition filed under Section 311 Cr.P.C. by the complainant for reopening the case and recalling P.Ws.1 and 2. It is contended that the complainant had already failed to avail several opportunities granted by the trial Court and remained absent for cross-examination despite imposition of costs. It is further contended that once the evidence of the complainant was closed and the matter reached the stage of arguments, the trial Court ought not to have reopened the matter after a lapse of more than one year. Learned counsel for the petitioner would further submit that the petition filed under Section 311 Cr.P.C. was not maintainable, as the complainant cannot seek recall of witnesses for the purpose of cross-examination by the accused. It is further submitted that the trial Court failed to assign cogent reasons while allowing the petition and thereby caused serious prejudice to the accused.

3. Learned Assistant Government Pleader for the State submitted that appropriate orders may be passed in accordance with law.

4. This Court has carefully perused the material available on record and the impugned order passed by the learned Magistrate.

5. The record discloses that the chief examination affidavit of P.W.1 was filed on 27.09.2022 and Exs.P1 to P6 were marked. However, thereafter the complainant did not appear before the Court for cross-examination. Though opportunities were granted from time to time, including by imposing costs, the complainant failed to avail the same and ultimately reported no further evidence on 07.03.2023. Consequently, the evidence of the complainant was closed.

6. Subsequently, the complainant filed CrI.M.P.No.1516 of 2024 seeking reopening of the case and recall of P.Ws.1 and 2 for the purpose of facing cross-examination. The learned Magistrate, taking into consideration the principles of fair trial and opportunity to both parties to adduce evidence, allowed the petition subject to payment of costs of Rs.5,000/- to the accused and directed P.W.1 to present himself along with P.W.2 for cross-examination on the next adjournment.

7. It is well settled that the power under Section 311 Cr.P.C. is wide and discretionary and can be exercised at any stage of the proceedings if the Court considers that such recall is essential for a just decision of the case. The object of the provision is to ensure that the truth is brought before the Court and that no party is denied an opportunity to substantiate its case.

8. In the present case, the learned Magistrate has exercised the discretion primarily on the ground that the complainant is now ready to subject himself

for cross-examination and that denial of such opportunity may result in failure of justice. At the same time, the learned Magistrate safeguarded the interests of the accused by imposing costs and by restricting the complainant from adducing any further evidence except for facing cross-examination.

9. This Court does not find any jurisdictional error, illegality or perversity in the exercise of discretion by the trial Court warranting interference in revision. The impugned order, in the opinion of this Court, subserves the cause of justice and provides equal opportunity to both parties to contest the matter on merits.

10. Accordingly, the Criminal Revision Case is disposed of confirming the order dated 13.06.2024 passed in CrI.M.P.No.1516 of 2024 in C.C.No.243 of 2020 by the learned Special Magistrate, Tanuku, while granting liberty to the petitioner/accused to work out his remedies in accordance with law during the course of trial. There shall be no order as to costs.

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

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:23.04.2026
KKV

HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Crl.R.C.No.542 of 2024

Dt.23.04.2026

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