

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO
CRIMINAL PETITION NO: 6201 OF 2025



Between:

Thopudurthi Prakash Reddy, S/o Thopudurthy Athma Rama Reddy, Aged 52 years, R/o D.No.1-44, Thopudurthy Athmakur mandal, Ananthapuramu, Andhra Pradesh 515641.

... Petitioner/
Accused

AND

1. The State of AP, Rep. by its Public Prosecutor, High Court of A.P., Amaravati.
2. C. Mallikarjuna, Aged 37 years, Police Constable, Ramagiri Police Station, Sri Satya Sai District, Andhra Pradesh.

.... Respondent/
De-facto Complainant

Petition under Section 528 of BNSS is filed, praying that in the circumstances stated in the affidavit filed in support of the Criminal Petition, the High Court may be pleased to quash the proceedings lodged vide FIR No. 23/2025 Dt. 12-06-2025 at Ramagiri Police Station, Sri Satya Sai District.

IA NO: 2 OF 2025

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in pursuance of the vide FIR No.23/2025, Dt. 12-06- 2025 at Ramagiri Police Station, Sri Satya Sai District, Pending disposal of CRLP 6201 of 2025, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI M BALA KRISHNA Advocate for the Petitioner, Assistant Public Prosecutor for the respondent No.1, the Court made the following.

ORDER



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

[3521]

TUESDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 6201/2025

Between:

Thopudurthi Prakash Reddy

...PETITIONER/ACCUSED

AND

The State of AP and others

...RESPONDENT/COMPLAINANT(S)

Counsel for the Petitioner/accused:

M Bala Krishna

Counsel for the Respondent/complainant(S):

Public Prosecutor

The Court made the following:

ORDER:

The criminal petition has been filed seeking to quash the proceedings in Cr.No.23 of 2025 dated 12.06.2025 of Ramagiri Police Station, registered for the alleged offences under Sections 221, 223, 224, 292, 126(2), 196(1), 132, 351(3), 61(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for brevity 'the BNS'),.

2. It is not in dispute that the petitioner was not present at the scene of alleged offence at the time of the commission. Section 215 of 'the BNSS.'

bars the prosecution for contempt of lawful authority of public servants for offences against public justice and for offences relating to documents given in evidence. Section 215 of 'the BNSS,' mandates that no Court shall take cognizance of any offence punishable under Sections 206 to 223 of 'the BNS'.

3. In this Case, the report has been lodged by a police constable. There is no complaint in writing given to the Court having jurisdiction as mandated under Section 215 of 'the BNSS'.

4. The case was registered for the offences punishable under Sections 221, 222 and 223 of 'the BNS,' including other sections. These three sections are contemplated under Section 215 of 'the BNSS' as a bar for taking cognizance.

5. A learned Single Judge of this Court in **Kantamaneni Ravishankar v. State of Andhra Pradesh**¹ at para No.86 held as under:

"86...Therefore, to register a crime against a person, who disobeyed the ordinance, there must be a complaint from public servant about the disobedience of ordinance. Hence, the very registration of crime for the offence punishable under Section 188 of I.P.C. is contrary to the settled law laid down by the Apex Court and other High Courts (referred supra) and the police officer is incompetent to register a crime for the offence punishable under Section 188 of I.P.C. on the complaint of any other person other than a public servant and any other person, who is authorized by public servant. Consequently, registration of crime against the petitioner is vitiated by irregularity."

¹ 2020 SCC OnLine AP 726

6. Further, the Hon'ble Apex Court in **Bandekar Brothers Private Limited v. Prasad Vassudev Keni**² at para No.48 held as under:

*"48. Equally important to remember is that if in the course of the same transaction two separate offences are made out, for one of which Section 195 CrPC is not attracted, and it is not possible to split them up, the drill of Section 195(1)(b) CrPC must be followed. Thus, in **State of Karnataka v. Hemareddy**³, this Court referred to a judgment of the Madras High Court (V.V.L. Narasimhamurthy. In r⁴) and approved its ratio as follows: (Hemareddy case³, SCC pp.190-91, paras 7-8)*

"7...In the third case, Somasundaram, J., has observed: (V.V.L Narasimhamurthy case⁴, SCC OnLine Mad)

'The main point on which Mr Jayarama Ayyar appearing for the petitioner seeks to quash this committal is that on the facts an offence under Section 193 IPC is disclosed for which the court cannot take cognizance without a complaint by the court as provided under Section 195(1)(b) of the Criminal Procedure Code. The first question which arises for consideration is whether on the facts mentioned in the complaint, an offence under Section 193 IPC is revealed. Section 193 reads as follows:

***"193. Punishment for false evidence:** Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

"Fabrication of false evidence" is defined in Section 192. The relevant portion of it is:

"Whoever causes any circumstance to exist intending that such circumstance may appear in evidence in a judicial proceeding and that such

² (2020) 20 SCC 1

³ (1981) 2 SCC 185; 1981 SCC (Cri) 395

⁴ V.V.L. Narasimhamurthy v. State, 1953 SCC OnLine Mad 236 : AIR 1955 Mad 237

circumstance may cause any person who in such proceeding is to form an opinion upon the evidence to entertain an erroneous opinion touching any point material to the result of such proceeding is said "to fabricate false evidence".

The effect of the allegations in the complaint preferred by the complainant is that the petitioner has caused this will to come into existence intending that such will may cause the Judge before whom the suit is filed to form an opinion that the will is a genuine one and, therefore, his minor daughter is entitled to the property. The allegation, therefore, in the complaint will undoubtedly fall under Section 192 IPC. It will, therefore, amount to an offence under Section 193 IPC i.e. fabricating false evidence for the purpose of being used in the judicial proceeding. There is no doubt that the facts disclosed will also amount to an offence under Sections 467 and 471 IPC. For prosecuting this petitioner for an offence under Sections 467 and 471, a complaint by the court may not be necessary as under Section 195(1)(b) CrPC a complaint may be made only when it is committed by a party to any proceeding in any court.

Mr Jayarama Ayyar does not give up his contention that the petitioner, though he appears only a guardian of the minor girl, is still a party to the proceeding. But it is unnecessary to go into the question at the present moment and I reserve my opinion on the question whether the guardian can be a party to a proceeding or not, as this case can be disposed of on the other point viz. that when the allegations amount to an offence under Section 193 IPC, a complaint of court is necessary under Section 195(1)(a) CrPC and this cannot be evaded by prosecuting the accused for an offence for which a complaint of court is not necessary."

8. We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a court is necessary under Section 195(1)(b) of the Code of Criminal Procedure and an offence for which a complaint of a court is necessary under that sub-section, are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 195(1)(b) of the Code of Criminal Procedure should be upheld."

7. A fair reading of the two judgments it is clear that even registration of 'FIR is hit by Section 215 of 'the BNSS.,' as per judgment of **Kantamaneni Ravishankar** and as per the judgment of **Bandekar Brothers Private Limited**. If they are two separate offences made out for one of which Section 215 of 'the BNSS' (Section 195 of 'the Cr.P.C') is not attracted if it is not possible to split them up then the mandate under Section 215 of 'the BNSS.,' shall be followed.

8. The learned Public Prosecutor relied on the judgment of the Hon'ble Apex Court in **CBI v. Sashi balasubramanian**⁵ wherein at para No.33 held as under:

33...In any view of the matter, an immunity is granted only in respect of offences purported to have been committed under direct tax enactment or indirect tax enactment, but by no stretch of imagination, the same would be granted in respect of offences under the Prevention of Corruption Act. A person may commit several offences under different Acts; immunity granted in relation to one Act would not mean that immunity granted would automatically extend to others. By way of example, we may notice that a person may be prosecuted for commission of an offence in relation to property under the Penal Code as also under another Act, say for example, the Prevention of Corruption Act. Whereas charges under the Prevention of Corruption Act may fail, no sanction having been accorded therefore, the charges under the Penal Code would not."

9. It is held in **Sashi balasubramanian** *supra* that immunity granted only in respect of offences allegedly committed under one enactment, the same immunity would be granted in respect of offences under different enactment.

⁵ (2006) 13 SCC 252

10. Indeed, in this case, there are no offences allegedly made out under the different enactments all the offences alleged are under Section 215 'the BNSS'. Therefore, the judgment is not much helpful to the prosecution.

11. Be that as it may, this is not at the stage of final hearing of the criminal petition. The matter is required to be heard in detail.

12. In view of the embargo under Section 215 of 'the BNSS.,' registration of a case under Sections 221, 222 and 223 of 'the BNS.,' is hit by Section 215 of 'the BNSS.,' inasmuch there is no proper complaint as contemplated under Section 215 of 'the BNSS'. Therefore, there shall be stay all further proceedings in Cr.No.23 of 2025 dated 12.06.2025 of Ramagiri Police Station, for two (02) weeks against the present petitioner only. The police are at liberty to proceed to take up investigation to its logical conclusion against the other accused.

13. List on 15.07.2025.

Sd/-K.TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The SHO, Ramagiri Police Station, Sri Satya Sai District.
2. C. Mallikarjuna, Aged 37 years, Police Constable, Ramagiri Police Station, Sri Satya Sai District, Andhra Pradesh. (by RPAD)
3. One CC to SRI. M BALA KRISHNA Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court of Andhra Pradesh.[OUT]
5. One spare copy

HIGH COURT

DR.YLR, J

DATED:24/06/2025

ORDER

List on 15.07.2025.

CRLP.No.6201 of 2025

STAY

