

HIGHCOURT OF ANDHRA PRADESH AT AMARAVATI**MAIN CASE No: CrI.P.No.7284 of 2025****PROCEEDING SHEET**

Sl. No.	DATE	ORDER	OFFICE NOTE
03.	17.02.2026	<u>Dr.YLR,J</u> Heard the learned counsel for the petitioner, the learned Assistant Public Prosecutor, and the learned counsel for respondent No.2. As seen from the record, in the order dated 14.06.2018 passed by the learned Judicial Magistrate of First Class, there is no reference that the informant/respondent No.2 has submitted any sworn statement or affidavit before taking cognizance of the offence against the petitioner/Accused No.2. The impugned order merely refers to the presence of the informant and the statements recorded under Section 161 of 'the Cr.P.C.' of respondent No.2, and his report stating that Accused No.2/Chinthati Sudheer also participated in the offence. Hence, a request was made to take cognizance against him for the offences punishable under Sections 324, 307, 452 and 354 read with Section 34 of 'the IPC', and a memo was filed to that effect through his counsel. In fact, cognizance cannot be taken against the accused; it can only be taken in respect of the offence. The Hon'ble Apex Court in Mona Panwar v. High Court of Judicature of Allahabad¹ and Chief Enforcement	

¹(2011) 3 SCC 496

		Officer v. Videocon International Ltd.,² held that cognizance should be taken only of the offence and not of the offender. The learned Judicial Magistrate of First Class missed this fundamental principle while taking cognizance. The Hon'ble Apex Court in Priyanka Srivastava v.State of U.P³ held that there shall be a sworn statement or affidavit of the complainant before taking cognizance of any offence against any person, in order to curb misuse of the powers of the Magistrate at the behest of unscrupulous litigants. That is the reason why Section 175(3) of 'the BNSS' was introduced, requiring an affidavit by the complainant stating that the concerned Superintendent of Police had not acted upon his complaint under Section 173(4) of 'the BNSS'. Recently the Hon'ble Apex court in Om Prakash Ambadkar v.State of Maharastra⁴, at paragraph No.34, reiterated the dicta laid down in Priyanka Srivastava. Considering the facts and circumstances of the case, there shall be a stay of all further proceedings insofar as the petitioner/Accused No.2 is concerned in S.C.No.319 of 2018 on the file of the learned Senior Civil Judge Court, Proddatur, YSR Kadapa District, including the appearance of the petitioner/Accused No.2, until the next date of hearing. Post the matter after three weeks. _____ Dr.YLR,J RSI	
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²(2008) 2 SCC 492

³ (2015) 6 SCC 287

⁴ 2025 SCC OnLine SC 238