

[3396]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY, THE SEVENTEENTH DAY OF FEBRUARY,

TWO THOUSAND AND TWENTY SIX

:PRESENT:

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 7284 OF 2025



Between:

Chinthati Sudheer, S/o Late Subbarayudu Aged about 36 year, R/o MuddanurTown and Mandal YSR Kadapa District.

Petitioner/A2

AND

1. The State of Andhra Pradesh, Rep.by its Public Prosecutor, High Court of Andhra Pradesh At Amaravati.

Respondent

2. Juturu Lasya Prabodha Reddy, S/o Prabhakar Reddy aged 21 year, D.No. 5/100-2B Near Boys High School MuddanurTown and Mandal, YSR Kadapa District.

Respondent/Defacto Complainant

Petition under Section 528 of B.N.S.S. (under section 482 of Cr.P.C), 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 in S.C.NO. 319 OF 2018 on the file of Senior Civil Judge Court Proddatur, YSR Kadapa District, against the petitioner /Accused Nos. 2.

IA NO: 1 OF 2025

Petition under Section 528 of B.N.S.S. (under section 482 of Cr.P.C), is filed praying that in the circumstances stated in the grounds filed in support of the petition, the High Court may be pleased to grant Stay all and further proceedings including appearance of the Petitioner/Accused No.2 in

S.C.NO. 319 of 2018 on the file of Senior Civil Judge Court Proddatur, YSR Kadapa district, Pending disposal of CRLP 7284 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 the earlier order of the High Court dated. 14.07.2025 made herein and upon hearing the arguments of Sri. HARINADH NIDAMANURI, Advocate for the Petitioner and of PUBLIC PROSECUTOR, for Respondent No.1;

The Court made the following ORDER:

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 Allahabad*¹ and *Chief Enforcement Officer v. Videocon International Ltd.*,² held that cognizance should be taken only of the offence and not of the offender. The learned Judicial

¹ (2011) 3 SCC 496

² (2008) 2 SCC 492

Magistrate of First Class missed this fundamental principle while taking cognizance. /

The Hon'ble Apex Court in *Priyanka Srivastava v.State of U.P*³ 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 Maharastra*⁴, 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.

SD/- K. KASIRAO ACHARI
ASSISTANT REGISTRAR


SECTION OFFICER

//TRUE COPY//

To,

1. The Civil Judge Court (Senior Division) Proddatur, YSR Kadapa District.
2. Juturu Lasya Prabodha Reddy, S/o Prabhakar Reddy aged 21 year, D.No. 5/100-2B Near Boys High School MuddanurTown and Mandal, YSR Kadapa District. (BY RPAD)
3. One CC to Sri. HARINADH NIDAMANURI, Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court of AP [OUT]
5. One spare copy

JSS

³ (2015) 6 SCC 287

⁴ 2025 SCC OnLine SC 238

HIGH COURT

DR. YLR, J

DATED:17.02.2026.

POST THE MATTER AFTER THREE WEEKS.

ORDER

CRLP.No.7284 of 2025

STAY

