

IN THE HIGH COURT OF ANDHRA PRADESH

CRIMINAL PETITION No.5209 of 2023

Between:

Kum. C. Rohini Roy, D/o.Sai Baba, aged about 25 years, Occ.Chief Executive Officer, Roy Opportune Pvt. Ltd. O/o.Solarpuria Windsor, Ulsoor Road, Bangalore, R/o.C/o.D.No.1-6, R.K, Chowdary Buildings, Tirupati District, Andhra Pradesh.

.... Petitioner

AND

1. The State of Andhra Pradesh, Rep. By its Public Prosecutor
and other.

...Respondents

DATE OF ORDER PRONOUNCED: 08.05.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K. SREENIVASA REDDY

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|---|----------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the judgment? | Yes / No |
| 2. Whether the copies of judgment may be
marked to Law Reporters / Journals? | Yes / No |
| 3. Whether His Lordship wish to
see the fair copy of the Judgment? | Yes / No |

JUSTICE K. SREENIVASA REDDY

*** THE HON'BLE SRI JUSTICE K. SREENIVASA REDDY**
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.... Petitioner

AND

1. The State of Andhra Pradesh, Rep. By its Public Prosecutor
and other.

...Respondents

! Counsel for Petitioner : Sri S. Nageswara Reddy.
^ Counsel for Respondent No.1 : Assistant Public Prosecutor.
^ Counsel for Respondent No.2 : Sri Uday Kumar Vampugadavala.

< Gist:

> Head Note:

? Cases referred:

1) AIR 1992 SC 604

APHC010355532023



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

[3327]

FRIDAY, THE EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT**THE HONOURABLE SRI JUSTICE K. SREENIVASA REDDY****CRIMINAL PETITION NO: 5209/2023****Between:**

1.KUM. C. ROHINI ROY, D/O.SAI BABA AGED ABOUT 25 YEARS,OCC.CHIEF EXECUTIVE OFFICER ROY OPPORTUNE PVT.LTD. O/O.SOLARPURIA WINDSOR. ULSOOR ROAD, BANGALORE R/O.C/O.D.NO.1-6, R.K CHOWDARY BUILDINGS TIRUPATI DISTRICT ANDHRA PRADESH

...PETITIONER/ACCUSED**AND**

1.THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC PROSECUTOR HIGH COURT, AMARAVATI.

2.DR R SURESH KUMAR, S/O.JOGESHWAR RAO C/O.DR.SURESH SUPER SPECIALTY AND CRITICAL CARE CENTRE DORNAKAL ROAD, VIJAYAWADA, KRISHNA DISTRICT ANDHRA PRADESH.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to call for the records in C.C.No.508/2023 on the file of the court of the Hon'ble I Additional Metropolitan Magistrate, Vijayawada, Krishna District, Andhra Pradesh and quash the charge sheet as the same is illegal and abuse of process of law and to pass

IA NO: 1 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased To stay of all further proceedings including appearance of the petitioner/ Accused in C.C.No.508/2023 on the file of the court of the Hon'ble I Additional Metropolitan Magistrate, Vijayawada, Krishna District, Andhra Pradesh pending disposal of the above Crl.P. and pass

IA NO: 2 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to extend the interim stay granted in IA No. 1/2023 in Crl.P.No. 5209/2023 on 25-07-2023 and pass

IA NO: 3 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to extend the interim stay granted in IA.No. 1/2023 in Crl.P.No. 5209/2023 on 25-07-2023 and 13-10-2023 and pass

IA NO: 1 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased May be pleased to extend the stay of all further proceedings in C.C No 508/2023 on the file of the court of the Hon'ble I Additional Metropolitan Magistrate, Vijayawada, Krishna District Andhra Pradesh granted by this Hon'ble Court as per the order dt. 25-07-2023 in LA 1 of 2023 till the disposal of the Criminal Petition

Counsel for the Petitioner/accused:

1.S.NAGESWARAREDDY

Counsel for the Respondent/complainant(S):

1.UDAY KUMAR VAMPUGADAVALA

2.PUBLIC PROSECUTOR (AP)

The Court made the following:

ORDER

This Criminal Petition, filed under Section 482 of the Code of Criminal Procedure, 1973, has been preferred by the Petitioner/Accused, seeking to quash the charge sheet in C.C.No.508 of 2023 on the file of the learned I Additional Metropolitan Magistrate, Vijayawada, Krishna District (arising out of Crime No.390 of 2021 of Suryaraopet police station), registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860 (for brevity, "IPC").

2. Case of the prosecution, in brief, is that 2nd respondent-Dr. Rachaprolu Suresh Kumar/de facto complainant is a medical practitioner running Dr. Suresh Super Specialty & Critical Care Centre, Vijayawada. Pursuant to the directions issued by the Government of Andhra Pradesh during the COVID-19 pandemic for installation of Oxygen plants in hospitals, 2nd respondent decided to equip his hospital with Oxygen plant. It is alleged that the accused approached, who represented herself as the CEO of M/s. Roy Opportune Private Limited, approached 2nd respondent /defacto complainant for supply and installation of a ZHONGRUI Brand Oxygen Plant. It is alleged that believing her representations, he finalized the quotation and secured a loan of Rs.1.96 crores from Bank of India, and by adding his own contribution, transferred a total amount of Rs.2.10 crores to the accused through RTGS for establishment of the oxygen plant. It is further alleged that despite receiving the entire amount, the accused failed to complete the project within the stipulated period and subsequently installed a substandard oxygen plant contrary to the agreed specifications and quotation dated 15.06.2021. The equipment allegedly lacked the promised brand specifications, company labels, and container system, thereby indicating fraudulent conduct.

On suspicion of cheating and misappropriation, 2nd respondent/de facto complainant lodged a police report, leading to registration of Crime

No.390 of 2021 of Suryaraopet police station, for the offences punishable under Sections 406 and 420 IPC. During investigation, the Police collected relevant documents, inspected the site, and found that the installed equipment did not conform to the specifications mentioned in the quotation.

It is alleged that the accused dishonestly induced 2nd respondent /de facto complainant with Rs.2.10 Crores and misappropriated the same by supplying inferior and incomplete equipment, thereby attracting punishment under Sections 406 and 420 IPC.

3. Learned counsel appearing on behalf of the petitioner submits that even accepting the entire accusations to be true, no *prima facie* case for the offences alleged is made out, as against the Petitioner herein. It is contended that pursuant to the orders placed by Respondent No. 2, the Petitioner erected the shed and installed the oxygen plant therein. According to the case of the de facto complainant, the Oxygen plant installed in the said shed is of substandard quality, and on the basis of the said allegations, the present case has been instituted against the Petitioner.

He further submits that in order to attract an offence under Section 420 IPC, it is essential that the petitioner should have dishonest intention right from the beginning. Learned counsel further submits that the offences punishable under Sections 406 and 420 of the IPC cannot ordinarily coexist, as the essential ingredients required to constitute the said offences are distinct in nature.

4. Learned counsel appearing on behalf of the Petitioner submits that, even if the allegations are accepted in their entirety, the same would, at best, amount to deficiency in service and would not attract the offences punishable under Sections 406 and 420 of the IPC. It is contended that the dispute is purely civil in nature.

5. There is no representation on behalf of Respondent No. 2. Even on the earlier occasion, as well as today, when the matter is listed under the caption "For Orders", none appeared on behalf of Respondent No. 2.

6. Learned Assistant Public Prosecutor appearing on behalf of the State submits that despite being fully aware that the Oxygen cylinder /plant was of substandard quality, the Petitioner proceeded to install the same in the land belonging to Respondent No.2. According to the learned Assistant Public Prosecutor, the Petitioner had dishonest intention right from the inception of the transaction and, therefore, the offences punishable under Sections 406 and 420 of the IPC, are clearly made out against her. She further submits that the truth or otherwise of the allegations can only be adjudicated during the course of trial and not at this stage in a petition under Section 482 Cr.P.C., and as such, there are no grounds to interfere with the impugned proceedings.

7. Heard learned counsel appearing on behalf of the petitioner and learned Assistant Public Prosecutor, appearing on behalf of the Respondent No.1/State.

8. Perused the material available on record.

9. There cannot be any dispute that inherent powers of this Court under Section 482 Cr.P.C. can be exercised to prevent abuse of process of Court or to give effect to any order under the code or to secure the ends of justice. This Court is also conscious of the fact that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases and that the Court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the report. On this aspect, it is pertinent to refer to the judgment of the

Hon'ble Apex court in *State of Haryana Vs. Ch.Bhajanlal and ors.*¹, wherein the Apex Court held,

"In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;
- (2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code;
- (3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
- (4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;
- (5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

¹ AIR 1992 SC 604

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. This Court perused the material on record. The allegation is that 2nd respondent/defacto complainant decided to equip his hospital viz. Dr. Suresh Super Specialty & Critical Care Centre, Vijayawada, with Oxygen plant during Covid-19 pandemic, pursuant to the directions of the Government to the hospitals to equip themselves with Oxygen plants. It is alleged that the Petitioner, representing herself as the CEO of M/s. Roy Opportune Private Limited, approached Respondent No. 2 and represented that her company would supply an oxygen plant of the best quality, and believing the said representations, Respondent No.2 placed an order worth Rs. 2,10,00,000/-. It is also stated that 2nd respondent also availed a loan under the “Star Sanjeevani COVID Scheme” from the Bank of India, Vijayawada Branch for the said purpose, and after verification of the proposed oxygen plant, namely the “ZHONGRUI” brand, Respondent No. 2 finalized the quotation. It is further alleged that the Petitioner assured completion and installation of the full-fledged Oxygen plant within a period of 40 days, however, the same was not fulfilled. It is the case of Respondent No. 2 that the Oxygen plant supplied and installed by the Petitioner was of substandard quality. On the basis of the said allegations, Respondent No. 2 lodged the present complaint, pursuant to which, the case came to be registered for the offences punishable under Sections 406 and 420 of the IPC.

11. One of the offences alleged as against the petitioner is punishable under Section 420 IPC. Section 420 IPC deals with 'cheating and dishonestly inducing delivery of property'. The essential ingredients to constitute an offence punishable under Section 420 IPC are (i) there must be dishonest or fraudulent intention in the mind of the accused *at the very time* the inducement was made, not developed later; (ii) the accused must intentionally deceive the victim by making a false representation (spoken, written, or concealed), and (iii) accused must, as a result of that deception, fraudulently or dishonestly induce the victim to deliver property to any person or make, alter or destroy a valuable property, or sign or seal anything capable of being converted into a valuable security.

12. The offence of 'cheating' is defined under Section 415 IPC. The necessary ingredients to constitute the offence of cheating, as defined under Section 415 IPC, are as follows.

- (1) Deception of any person;
- (2) (a) Fraudulently or dishonestly inducing that person-(i) to deliver any property to any person; or (ii) to consent that any person shall retain property, or
(b) intentionally inducing that person to do or omit to do anything, which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property."

According to the above Section, cheating is of two types. The first part of the Section deals with cheating where property of the victim is involved, and this is punishable under Section 420 IPC. Whereas in the second part of cheating, because of the act of the accused, victim suffers damage to his person, property, mind or reputation, and the same is punishable under Section 417 IPC.

13. Section 406 IPC deals with punishment for 'criminal breach of trust'. Necessary ingredients to constitute the offence of criminal breach of trust, as defined under Section 405 IPC, are –(1) entrusting any person

with property or with any dominion over property; (2) the person entrusted (a) dishonestly misappropriates or converts to his own use that property; or (b) dishonestly uses or disposes of that property or willfully suffers any other person so to do in violation –(i) of any direction of law prescribing the mode in which such trust is to be discharged, or (ii) of any legal contract made touching the discharge of such trust.

14. There cannot be any dispute that in order to attract an offence punishable under Section 420 IPC, there must be dishonest intention on the part of the accused from the inception. The allegation against the Petitioner is that she erected the shed and installed an Oxygen plant of inferior/substandard quality in the hospital being run by 2nd respondent /defacto complainant. The allegation is that that the Oxygen plant supplied by the Petitioner is of substandard quality. Admittedly, the Oxygen plant was installed by the Petitioner pursuant to the Order placed made by the de facto complainant /Respondent No. 2. If the plant installed is allegedly of inferior or substandard quality, the same would, at best, amount to deficiency in service on the part of the Petitioner. Merely because there is an alleged deficiency in service in supplying or installing the Oxygen plant as per the requirements of Respondent No. 2, the ingredients constituting the offences punishable under Sections 406 and 420 of the IPC would not attract as against the Petitioner. The grievance of the de facto complainant is essentially civil in nature. It is also pertinent to note that the de facto complainant already instituted O.S. No. 50 of 2023 on the file of the learned II Additional District Judge, Vijayawada against the petitioner, and the same is presently pending adjudication before the said Court. In the present case, the material on record discloses that the Petitioner had erected the shed and installed the Oxygen plant pursuant to the agreement entered into between the parties. The material on record discloses that the Petitioner raised invoice

towards erection of the shed and installation of the Oxygen plant for a total consideration of Rs.2,10,00,000/-, and the said work was admittedly carried out, though there was some delay in completion thereof. In view of the said conduct, this Court is of the considered opinion that it cannot be inferred that the Petitioner possessed any dishonest intention from the very inception of the transaction. Therefore, even if the allegations are accepted as true in their entirety, the offences punishable under Sections 406 and 420 of the IPC would not attract, for the reason that the Petitioner had, in fact, supplied and installed the Oxygen plant to Respondent No. 2.

15. In the considered opinion of this Court, even if the uncontroverted allegations made in the charge sheet and the material collected in support of the same are accepted as true and correct, no *prima facie* case for the offences alleged, is made out as against the petitioner. This case squarely falls under Clause (3) of the observations of the Hon'ble Apex Court in *State of Haryana Vs. Ch.Bhajanlal and ors* case (1 supra). In view of the aforesaid facts and circumstances of the case, no purpose would be served in directing the petitioner herein to face entire ordeal of trial. Therefore, continuation of the impugned proceedings against the petitioner is nothing but abuse of process of Court.

16. Accordingly, the Criminal Petition is allowed, and the proceedings in C.C.No.508 of 2023 on the file of the learned I Additional Metropolitan Magistrate, Vijayawada, are hereby quashed.

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Petition, shall stand closed.

JUSTICE K. SREENIVASA REDDY

Date: 08.05.2026.

MS/DRK

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Criminal Petition No: 5209 of 2023

Date: 08.05.2026

MS