

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE TWENTY FOURTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE



PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NOS: 1016 AND 1017 OF 2025

CRIMINAL REVISION CASE NO: 1016 OF 2025:

APHC010414602025



Revision filed under Sections 438 and 442 of BNSS praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to modify/set aside the sentence passed in CC.No.80 of 2023 dated 07-05-2024 on the file of the Additional Civil Judge (Junior Division), Palakol and the same has been confirmed by X Additional District and Sessions Judge, Narsapur, West Godavari District in Criminal Appeal No.210 of 2024, dated 21-03-2025.

Between:

Devara Nageswara Rao, aged 28 years, S/o.Ramakrishna, R/o.D.No.6-190, Kothapeta, Vempa Village, Bhimavaram Mandal.

...Accused/Appellant

AND

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The State of Andhra Pradesh, rep by its Public Prosecutor at High Court
of A.P at Amaravati, through Sub-Inspector of Police, Palakol Town PS.
...Complainant/Respondent

Counsel for the Petitioner: Sri J.Ravi Kumar

Counsel for the Respondent: Ms.P.Akhila Naidu,
Assistant Public Prosecutor

CRIMINAL REVISION CASE NO: 1017 OF 2025:

APHC010414582025



Revision filed under Sections 438 and 442 of BNSS praying that in the
circumstances stated in the affidavit filed in support of the Criminal Revision
Case, the High Court may be pleased to set aside/modify the sentence
passed in CC.No.65 of 2023 dated 07-05-2024 on the file of the Additional
Civil Judge (Junior Division), Palakol and the same has been confirmed in
Criminal Appeal No.209 of 2024, dated 21-03-2025 by the X Additional District
and Sessions Judge, Narsapur, West Godavari District.

Between:

Devara Nageswara Rao, aged 28 years, S/o.Ramakrishna, R/o.D.No.6-
190, Kothapeta, Vempa Village, Bhimavaram Mandal.
...Accused/Appellant

AND

The State of Andhra Pradesh, rep by its Public Prosecutor at High Court
of A.P at Amaravati, through Sub-Inspector of Police, Palakol Town PS.
...Complainant/Respondent

Counsel for the Petitioner: Sri J.Ravi Kumar

**Counsel for the Respondent: Ms.P.Akhila Naidu,
Assistant Public Prosecutor**

The Court made the following:

HONOURABLE DR. JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE Nos: 1016 and 1017 of 2025

COMMON ORDER:

As the Petitioner in these two revision cases is one and the same the revision cases are heard together and disposed of by a common order.

2. The facts leading to filing of the ***Criminal Revision Case No.1016 of 2025*** are as under:

This Criminal Revision Case is preferred under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ challenging the judgement dated 21.03.2025 in CrI.A.No.210 of 2025 on the file of the learned X Additional District and Sessions Judge, Narsapur² confirming the judgment dated 07.05.2024 in C.C.No.80 of 2023 on the file of the learned Additional Civil Judge (Junior Division), Palakol³, whereby and whereunder the petitioner was found guilty of the offence punishable under Section 411 of the Indian Penal Code, 1860⁴ and convicted for the offence under Section 248(2) of the Code of Criminal Procedure, 1973⁵, to undergo rigorous imprisonment for two years and pay fine of Rs.5,000/-.

3. The facts leading to filing of ***Criminal Revision Case No.1017 of 2025*** are as under:

This Criminal Revision Case is preferred under Sections 438 and 442 of 'the BNSS' (1 *supra*) challenging the judgement dated 21.03.2025 in

¹ the BNSS

² Appellate Court

³ Trial Court

⁴ the I.P.C

⁵ the Cr.P.C

Crl.A.No.209 of 2025 on the file of the learned X Additional District and Sessions Judge, Narsapur⁶ confirming the judgment dated 07.05.2024 in C.C.No.65 of 2023 on the file of the learned Additional Civil Judge (Junior Division), Palakol⁷, whereby and whereunder the petitioner was found guilty of the offences punishable under Sections 356 and 382 read with 34 of the Indian Penal Code, 1860⁸ and convicted for the charged offences under Section 248(2) of the Code of Criminal Procedure, 1973⁹, to undergo rigorous imprisonment for three years and fine of Rs.5,000/- for the offence punishable under section 382 of 'the I.P.C'. and rigorous imprisonment for one year and fine of Rs.5,000/- for the offence punishable under section 356 of 'the I.P.C'.

4. Sri J. Ravi Kumar, learned counsel for the petitioner, while reiterating the grounds of the revisions, submits that the judgments of the learned Trial Court and its confirmation by the learned Appellate Court is contrary to law, the weight of evidence and the probabilities of the case.

5. Learned counsel for the Petitioner further submits that the learned Appellate Court erred in relying on the interested and inconsistent testimony of PWs.1 to 4 in C.C.No.80 of 2023. PW.1 was unable to identify who snatched her gold chain, and the alleged theft occurred on 17.07.2022 at around 8:15 P.M., while recovery was made after a delay of nearly five months on 06.02.2023. It is highly improbable that the stolen gold chain remained in the

⁶ Appellate Court

⁷ Trial Court

⁸ The I.P.C

⁹ The Cr.P.C

same condition during this period without being sold or melted. The chain's recovery in the same condition as on the date of theft raises serious doubts about the credibility of PW.4 and the recovery process. Given the malleable and ductile nature of gold, the recovery of the chain in its original form despite the alleged forceful snatching is highly questionable. PW.3 did not state he was present when the chain was weighed by the goldsmith, and the weighing was done in the absence of mediators, undermining the evidentiary value. There were no eyewitnesses to the actual snatching, and conviction based solely on the recovery of the alleged stolen property is insufficient and does not establish guilt beyond reasonable doubt. The reasons given by the learned Judge are unsustainable and urged to allow the criminal revision case.

6. Learned counsel for the Petitioner further submits that the learned Judge erred in placing undue reliance on the highly interested and inconsistent testimonies of PWs.1, 4, 5, 6, and 7 in C.C.No.65 of 2023. The alleged chain snatching occurred on 20.01.2023 and was recovered on 06.02.2023. As per PW.1, the chain was snatched with force, causing injury. Given gold's softness and malleability, it is improbable that the chain would retain its original shape after such forceful snatching. Yet, no explanation is offered by PW.1 or PW.7 on how it was recovered in original condition. PW.1 failed to explain from which direction the accused approached and how they fled the scene post-snatching. PW.4 did not confirm his presence during the weighing of the recovered gold, and the process occurred without mediators. This casts

serious doubt on the credibility of PW.4 and PW.7's testimonies. PW.6, who provided the CCTV footage, is neither the owner nor custodian of the original footage. His digital certificate is not valid under Section 65-B of the Indian Evidence Act, 1872¹⁰ rendering the footage legally inadmissible. The CCTV footage was collected by the Investigating Officer without proper certification from the rightful owner, making it inadmissible in law. The remaining reasons cited by the learned Judge lacks legal and factual basis and are unsustainable and urged to allow the criminal revision case.

7. On the other hand, Ms. P.Akila Naidu, learned Assistant Public Prosecutor, vehemently argued that the prosecution proved the guilt of the revisionist beyond all reasonable doubt. Therefore, the learned Trial Court and the Appellate Court rightly found the revisionist guilty of the offences charged and appropriately dealt them by imposing the sentence. The concurrent findings are not required to be interfered and urged to dismiss the revisions.

8. I have heard the arguments of the learned counsel for the petitioner, and the learned Assistant Public Prosecutor.

9. Thoughtful consideration is bestowed on the arguments advanced by the learned counsel for the petitioner and the learned Assistant Public Prosecutor. I have perused the record.

10. Now the point for consideration is:

¹⁰ The Act

"Whether the judgments in Crl.A.Nos.210 and 209 of 2024 dated 21.03.2025 passed by the learned Appellate Court, are correct, legal, and proper with respect to their findings, sentences, or judgments, and there are any material irregularities? And to what relief?"

11. While deciding a criminal revision case filed against either conviction or acquittal of accused, it is apposite to refer the Hon'ble Apex Court in **Bindeshwari Prasad Singh v. State of Bihar**¹¹ wherein at Paragraph No.13 it is held as under:

"13. ... In the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in exercise of its revisional jurisdiction. It has repeatedly been held that the High Court should not re-appreciate the evidence to reach a finding different from the trial Court. In the absence of manifest illegality resulting in grave miscarriage of justice, exercise of revisional jurisdiction in such cases is not warranted."

12. In **State of Karnataka v. Appa Babu Ingale**¹², at Paragraph No.2 it is held as under:

"...Ordinarily it is not open for the High Court to interfere with the concurrent findings of the courts below specially by re-appreciating the evidence in its revisional jurisdiction...."

13. In **Jagannath Chowdhary v. Ramayan Singh**¹³, at Paragraph Nos.10 to 13 it is held as under:

"10. While it is true and now well-settled in a long catena of cases that exercise of power under Section 401 cannot but be ascribed to be discretionary - this discretion, however, as is popularly informed has to be a judicious exercise of discretion and not an arbitrary one. Judicial discretion cannot but be a discretion which stands "informed by tradition, methodised by analogy and disciplined by system" - resultantly only in the event of a glaring defect in the procedural aspect or there being a manifest error on

¹¹ (2002) 6 SCC 650

¹² AIR 1993 SC 1126

¹³ AIR 2002 SC 2229

a point of law and thus a flagrant miscarriage of justice, exercise of revisional jurisdiction under this statute ought not to be called for. It is not to be lightly exercised but only in exceptional situations where the justice delivery system requires interference for correction of a manifest illegality or prevention of a gross miscarriage of justice. In Nosibolla: Logendranath Jha and Chinnaswamy Reddy (supra) as also in Thakur Das (Thakur Das (Dead) by LRs v. State of Madhya Pradesh and Anr., 1978 (1) SCC 27) this Court with utmost clarity and in no uncertain terms recorded the same. It is not an appellate forum wherein scrutiny of evidence is possible; neither the revisional jurisdiction is open for being exercised simply by reason of the factum of another view being otherwise possible. It is restrictive in its application though in the event of there being a failure of justice there can said to be no limitation as regards the applicability of the revisional power.

11. The High Court possesses a general power of superintendence over the actions of courts subordinate to it. On its administrative side, the power is known as the power of superintendence. On the judicial side, it is known as the duty of revision. The High Court can at any stage even on its own motion, if it so desires, and certainly when illegalities or irregularities resulting in injustice are brought to its notice call for the records and examine them. This right of the High Court is as much a part of the administration of justice as its duty to hear appeals and revisions and interlocutory applications -so also its right to exercise its powers of administrative superintendence. Though however, the jurisdictional sweep of the process of the High Court, however, under the provisions of Section 401 is very much circumscribed, as noticed hereinbefore.

12. Having regard to the aforesaid, we do feel it expedient to record that in the contextual facts presently under consideration before this Court, the High Court cannot but be said to have exceeded its revisional jurisdiction in setting aside the order of acquittal.

13. In any event, writing of a fresh judgment as directed by the Court is rather a significant departure in the normal disposal of revisional applications. Opportunities have been given for further argument but would that by itself tilt the scale - this aspect of the matter has already been noticed earlier, as such we need not dilate thereon excepting recording that an extremely significant departure from the normal form of Court orders stands challenged in this Court."

14. Keeping in view of all the principles laid down in the judgments referred *supra*, I shall proceed to decide these Revision Cases without there being any

iota of re-appreciation of evidence by sitting like a Second Appellate Court. This Court, while exercising its jurisdiction under Sections 438 and 442 of the BNSS (Section 397 read with Section 401 of 'the Cr.P.C.,' cannot invoke its revisional power as a Second Appellate Court and re-appreciation of evidence is not possible in the revision case as laid down in the decisions in **Bindeshwari Prasad Singh, Jagannath Chowdhary and Appa Babu Ingale**. However, this Court is not denuded of its powers to examine whether judgments impugned are correct, legal and proper with respect to their findings, sentence or even judgment and there are any material irregularities. If there are manifest illegalities and interest of public justice requires interference for the correction of those manifest illegalities or to prevent a great miscarriage of justice, this Court is empowered to evaluate the evidence and analyze it and conclude.

15. The prosecution examined P.Ws.1 to 4, marked Exs.P1 to P4 and M.O.1 in C.C.No.80 of 2023.P.W.1 deposed that her gold sutralathadu(chain) was snatched from her neck by an unknown person. She lodged a report, marked as Ex.P1, with the police. During the investigation, she identified the gold chain that had been snatched from her.P.W.2, the husband of P.W.1, corroborated her version. However, P.W.2 is not an eyewitness to the incident.P.W.3, who acted as a mediator during the arrest and seizure of M.O.1, supported the prosecution's case.

16. P.W.4, the Investigating Officer, deposed that he registered the report (Ex.P1) as FIR (Ex.P3), observed the scene of the offence, prepared sketch of it and examined the material witnesses. He later arrested the petitioner in the presence of P.W.3 and another mediator. Both P.W.3 and P.W.4 testified that M.O.1 was recovered from the possession of the petitioner. The offence occurred on 16.07.2022, and the recovery of M.O.1 was made on 06.02.2023. At the time of arrest, the petitioner was found in possession of other stolen property connected to twenty different cases.

17. M.O.1 was identified by P.W.1 as the chain stolen from her. There is no explanation, much less a convincing one offered by the petitioner as to how he came into possession of M.O.1, which admittedly belongs to P.W.1. An alternative charge under Section 411 of 'the I.P.C.', was framed, in addition to charges under Sections 356 and 382 of 'the I.P.C.', by the learned Trial Court. The petitioner was found guilty under Section 411 of 'the I.P.C.'. The learned Appellate Court confirmed the conviction. This Court, in revision, cannot re-appreciate the evidence. The contention that no person would keep a stolen gold chain without selling or melting it even after five months cannot be accepted at this stage. There exists no absolute or mandatory requirement in law that a stolen property must not be immediately disposed of by the offender, to attract the presumption under Section 114 of 'the Act'. The mere retention or continued possession of such property, without its instant

disposal, does not, by itself, negate the fact of theft or receiving of stolen property or alter the nature of the offence.

18. The Hon'ble Apex Court in ***Nagappa Dondiba Kalal v. State of Karnataka***¹⁴ at para No.3 held that in case where recovery of ornaments of the deceased 3 days after the occurrence at the instance of the accused, in regard to identity of ornaments it was held that even in the absence of any test identification parade identity of the ornaments was established and the accused having received the ornaments knowing them to be stolen property and the accused can be convicted under Section 411 of 'the I.P.C.,' on the basis of presumption under Section 114 of 'the Act'.

19. Section 411 of 'the I.P.C.,' provides that whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen, is liable for punishment. There is no flagrant miscarriage of justice, and the judgment of the learned Appellate Court does not suffer from any legal or procedural infirmity. Therefore, the impugned judgments are deserved to be sustained. However, about the quantum of sentence, there is no evidence that the petitioner has been previously convicted of similar offences. No criminal antecedents have been exhibited. Therefore, the imposition of two years' rigorous imprisonment does not appear proportionate to the gravity of the offence. The petitioner has been incarcerated for a period of more than one and half years. Section 411 of 'the I.P.C.,' provides for

¹⁴ 1980 (Supp) SCC 336

punishment with imprisonment which may extend up to three years, or with fine, or with both. In the present case, sentencing the petitioner to a further fine of Rs.5,000/- and restricting the sentence of imprisonment to the period already undergone by him would meet the ends of justice.

20. Considering the facts and circumstances of the case, the petitioner is sentenced to imprisonment which he had already undergone in criminal revision case No.1016 of 2025.

21. For the above reasons, Criminal Revision Case No.1016 of 2025 is disposed of confirming the conviction for the charge under Section 411 of 'the I.P.C.,' modifying the sentence of imprisonment to which he had already undergone, while sentencing him to pay an additional fine of Rs.5,000/-, in default of payment of fine, the petitioner shall suffer two months rigorous imprisonment.

22. The learned Additional Civil Judge (Junior Division), Palakol is directed to take required follow-up steps for complying with the directions of this Court. The petitioner shall pay the additional fine imposed by this Court in this order within a period of two months from the date of receipt of this order before the learned Trial Court.

CRIMINAL REVISION CASE NO.1017 OF 2025

23. The learned Trial Court, during the course of trial in C.C. No.65 of 2023, examined P.Ws.1 to 8, marked Exs.P1 to P7, and Material Object M.O.1.

24. P.W.1 deposed that on 20.01.2023 at about 4:30 P.M., she had gone for a stroll along with P.W.5, when two persons came on a motorcycle. The pillion rider forcibly snatched the gold chain from her neck. In the commotion, when P.W.1 nearly fell down, the pillion rider pushed her aside and fled with the gold chain. As a result, P.W.1 suffered an injury on the right side of her neck. Subsequently, she lodged a report with the police, which is marked as Ex. P1. P.W.1 identified the petitioners/Accused Nos.1 and 2 as the persons who had snatched her gold chain. P.W.5 corroborated the version of P.W.1 and also identified the accused. P.W.1 further deposed that she had verified the CCTV footage at the police station and identified the suspects as those who had snatched her gold chain. In the cross-examination of P.Ws.1 and 5, apart from offering certain suggestions all of which were denied. Nothing substantial was elicited to discredit their testimony or to establish that they were speaking falsehood.

25. P.W.3, the Medical Officer, deposed that he had treated P.W.1 on 20.01.2023 at 4:30 P.M., and noticed a mild scratch injury on the right side of the neck of P.W.1. There is no animosity between the accused and P.Ws.1 and 5.

26. P.W.6, a CCTV technician, deposed that he retrieved CCTV footage onto a pen drive (Ex.P5) at the request of the Sub-Inspector of Police, Palakol Town Police Station. He verified the relevant footage and stated that, in his presence, P.W.1 identified the individuals who had snatched the gold chain

from her neck.Ex.P4 is the certificate relating to the CCTV footage.Ex.P5 contains the relevant photographs retrieved by P.W.6.

27. P.W.4 acted as a mediator for the arrest and seizure of the gold ornament on 06.02.2023 at 10:30 A.M., along with M. Prakash, Village Revenue Assistant, and the Sub-Inspector of Police, Palakol Town Police Station. The gold ornament, M.O.1, was seized from the possession of the petitioners. Under cover of mediator's report (Ex.P3), several properties were recovered from the possession of the petitioners and other accused, which were all stolen properties involved in different crimes. The stolen property in the present case was marked as M.O.1, and P.W.1 identified M.O.1.The learned Magistrate found the petitioner guilty of the charges under Sections 356 and 382 of 'the I.P.C'. Appreciation of evidence in a revision case under Sections 397 read with 401 of 'the Cr.P.C.,' is impermissible, as there is no flagrant miscarriage of justice or material irregularity. Accordingly, the conviction under Sections 356 and 382 of 'the I.P.C.,' is required to be sustained. The learned Appellate Court has also rightly found the petitioner guilty of the charges under Sections 356 and 382 of 'the I.P.C'.

28. However, with regard to the sentence of imprisonment imposed in Crime No.65 of 2023 by the learned Trial Court, there is no material on record to suggest that the petitioners are habitual offenders. No document has been filed or proved to establish such a fact. Section 382 of 'the I.P.C.,' provides for rigorous imprisonment up to ten (10) years and also fine. Section 356 of 'the

I.P.C., provides for imprisonment up to two (2) years, or fine, or both. The learned Trial Court imposed rigorous imprisonment for three (03) years and fine of Rs.5,000/- for the charge under Section 382 of 'the I.P.C.', and also rigorous imprisonment for one (01) year and fine of Rs.5,000/- for the charge under Section 356 of 'the I.P.C'.

29. The learned Assistant Public Prosecutor has produced the nominal rolls submitted by the Superintendent of Jails, Central Prison, Rajamahendravaram, wherein it is mentioned that the petitioner had undergone imprisonment for a period of two years five months and two days. In the facts and circumstances of the case, the sentence of imprisonment for the charges under Section 382 and 356 of 'the I.P.C.', it would be appropriate to sentence the petitioner to suffer the imprisonment which he had already undergone. Accordingly, the Criminal Revision Case Nos.1016 and 1017 of 2025 are disposed of confirming the convictions, but modifying the sentence to which the petitioner had already undergone.

30. There shall be no order as to costs. As a sequel, interlocutory applications, if any pending, shall stand closed.

//TRUE COPY//

Sd/-B PRASADA RAO
DEPUTY REGISTRAR


SECTION OFFICER

To,

1. The X Additional District and Sessions Judge, Narasapur, West Godavari District. **(With records if any)**
2. The Additional Civil Judge (Junior Division), Palakol, West Godavari District.
3. The Station House Officer, Palakol Town Police Station, West Godavari District.

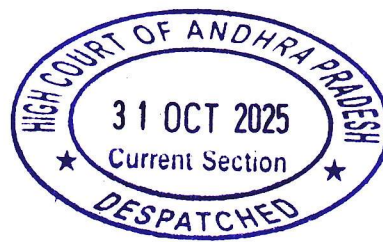
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4. One CC to Sri J.Ravi Kumar, Advocate [OPUC]
 5. Two CC's to the Public Prosecutor, High Court of Andhra Pradesh at Amaravati [OUT]
 6. The Section Officer, Criminal Section, High Court of Andhra Pradesh at Amaravati.
 7. **Two CD Copies**

BSV

vna

HIGH COURT

DATED:24/10/2025



COMMON ORDER

CRLRC NOS. 1016 AND 1017 OF 2025

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**DISPOSING OF THE CRIMINAL REVISION CASES
WITHOUT COSTS**