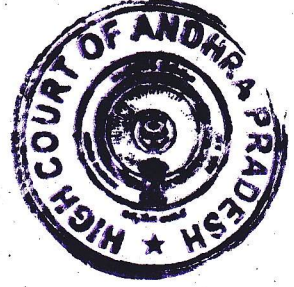


IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY, THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N



CRIMINAL PETITION NO: 7779 OF 2024

Between:

Yerramaneni Rathaiah, S/o Late Sri Ramulu, Hindu, Aged about 64 years, r/o Lingamgunta Village, Maddipadu Mandal, Prakasam District.

...PETITIONER/ACCUSED

AND

1. The State Of Andhra Pradesh, Rep by its Public Prosecutor, High Court of Andhra Pradesh, At Amaravati.
2. Thummala Srinivasa Rao,, S/o Ramanjaneyulu, Hindu, Aged about 40 years, R/o Brundavan Nagar, Ongole, Prakasam District.

...RESPONDENTS / COMPLAINANTS

Petition under Section 482 of Cr.P.C and new section 528 of BNSS,2023, praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to quash the order passed in CrI.M.P.No.560 of 2024 in S.T.C.No.3180 of 2022 on the file of II Additional Judicial Magistrate of I Class, Ongole, dated 02.07.2024, in the interest of justice.

I.A. NO: 1 OF 2024

Petition under Section 482 of Cr.P.C 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 in S.T.C.No.3180 of 2022 on the file of II Additional Judicial Magistrate of I Class, Ongole, in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri P Mallikharjuna Rao, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and of Sri. Madhava Rao Nalluri, Advocate for the Respondent No.2.

The Court made the following ORDER :



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

[3457]

**THURSDAY, THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

CRIMINAL PETITION NO: 7779/2024

Between:

Yerramaneni Rathaiah

...PETITIONER/ACCUSED

AND

**The State Of Andhra
Pradesh and Others**

...RESPONDENT/COMPLAINANT(S)

Counsel for the Petitioner/accused:

1.P MALLIKHARJUNA RAO

Counsel for the Respondent/complainant(S):

1.MADHAVA RAO NALLURI

2.PUBLIC PROSECUTOR

The Court made the following Order:

1. The petitioner is challenging the order passed by the II Additional Judicial Magistrate of I Class, Ongole, in Crl.M.P.No.560 of 2024, in STC No.3180 of 2022.
2. The petitioner is an accused in STC No.3180 of 2022, on the file of the II Additional Judicial Magistrate of I Class, for the alleged offence under Section 138 of the NI Act. The petitioner filed a petition under Section 311 of the Cr.P.C for the recall of PW1 to confront the original promissory note.
3. The learned Magistrate, while dismissing the petition filed by the petitioner, observed that the promissory note was already marked as Ex.P5 and that the case had been posted for cross-examination on 20.11.2023. Despite several conditional orders, the petitioner failed to cross-examine PW1, and as such, the Court had closed the cross-examination of Ex.PW1 as nil.
4. It was also observed that the petitioner had filed an application under Section 311 of the Cr.P.C to recall PW1 for cross-examination, vide Crl.M.P.No.414 of 2024. The same was allowed, and the respondent/complainant was cross-examined at length with respect to all aspects of the promissory note and cheque, with Ex.D1 also being marked.

5. The learned Magistrate also noted that the present application filed under Section 311 of the Cr.P.C. to confront the original promissory note was not available on record before the Court, as it had been filed before the III Additional Junior Civil Judge, Ongole, in O.S.No.1215 of 2022.

6. The learned Magistrate dismissed the petition on the ground that it was filed merely to delay the proceedings of Court and further observed that the petitioner/accused had remained silent when Ex.P5 was marked. The Magistrate concluded that recalling PW1 would serve no purpose.

7. As per the report, PW1 was examined on 16.10.2023, and cross-examination of PW1 was conducted on 23.04.2024. It is informed that the case is now coming up for defense's evidence. At this stage, this Court finds no grounds to interfere in the well-considered order of the learned Magistrate.

8. Accordingly, the Criminal Petition is dismissed.

Pending miscellaneous petitions, if any, shall stand closed.

SD/- K.J.RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The II Additional Judicial Magistrate of I Class, Ongole.

- 
2. One CC to Sri. P Mallikharjuna Rao Advocate [OPUC]
 3. One CC to Sri. Madhava Rao Nalluri Advocate [OPUC]
 4. Two CCs to the Public Prosecutor, High Court of Andhra Pradesh at Amaravathi [OUT]

5. THREE CD COPIES

PR

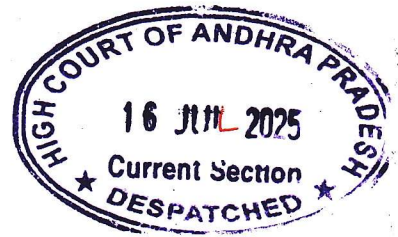
TAC

HIGH COURT

DATED:13/03/2025

ORDER

CRLP.No.7779 of 2024



DISMISSING THE CRLP