

APHC010515042025



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI



MONDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 10223 OF 2025

Between:

Pilli Sankari Rajya Lakshmi, W/o Suresh Babu, aged 48 years, Flat No. 402, DBV Raju Enclave, 4th Floor, AVA Road, Rajamahendravaram.

...Petitioner/Accused

AND

1. The State of Andhra Pradesh, Represented by its Public Prosecutor, High court at Amaravathi
2. Yedida Surya Kumari, W/o late Srinivasa Rao, aged 58 years, Besta Veedhi, Rajamahendravaram.
3. Yedida Brahmaji Rao, S/o. Late Srinivasa rao, aged 36 years, Besta Veedhi, Rajamahendravaram.
4. Koderi Chandra Sri Prabhavathi, W/o Venkateshwarlu, D/o Late Srinivasa Rao, aged 33 years, Besta Veedhi, Rajamahendravaram.

...Respondents/Complainants

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the order dated 26.06.2025 in CrI.M.P.No.552/2025 in CrI.Appeal No.236/2025 on the file of the VIII Addl. District & Sessions

Judge, East Godavari District at Rajamahendravaram, to the extent of directing the Petitioner to deposit of 20% of the compensation amount.

IA NO: 2 OF 2025

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 the execution of the CrI.MP 552/2025 in Criminal Appeal 236/2025 on the file of the VIII Addl. District & Sessions. Judge, East Godavari District at Rajamahendravaram to the extent of directing the Petitioner to deposit 20% of the compensation amount pending disposal of the main Criminal Petition.

Counsel for the Petitioner: Sri S A V Ratnam

Counsel for the Respondents: Ms.K Priyanka Lakshmi, Assistant Public Prosecutor

The Court made the following order:



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

[3396]

MONDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 10223/2025

Between:

1. PILLI SANKARI RAJYA LAKSHMI, W/O SURESH BABU, AGED 48 YEARS, FLAT NO. 402, DBV RAJU ENCLAVE, 4TH FLOOR, AVA ROAD, RAJAMAHENDRAVARAM.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT AT AMARAVATHI

2. YEDIDA SRINIVASA RAO DIED, RAJ AMAHENDRAVARAM.

3. YEDIDA BRAHMAJI RAO, S/O. LATE SRINIVASA RAO, AGED 36 YEARS, BESTA VEEDHI, RAJAMAHENDRAVARAM.

4. KODERI CHANDRA SRI PRABHAVATHI, W/O VENKATESHWARLU, D/O LATE SRINIVASA RAO, AGED 33 YEARS, BESTA VEEDHI, RAJAMAHENDRAVARAM.

...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 quash the order dated 26.06.2025 in CrI.M.P.No.552/2025 in CrI.Appeal No.236/2025 on the file of the VIII Addl. District and Sessions Judge, East Godavari District at Rajamahendravaram, to the extent of directing the Petitioner to deposit of 20% of the compensation amount

IA NO: 1 OF 2025

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 dispense with filing of the certified copy of the order in CrIMP 552/2025 in Criminal Appeal 236/2025 on the file of the VIII Addl. District & Sessions Judge, East Godavari District at Rajamahendravaram

IA NO: 2 OF 2025

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 the execution of the CrIMP 552/2025 in Criminal Appeal 236/2025 on the file of the VIII Addl. District & Sessions. Judge, East Godavari District at Rajamahendravaram to the extent of directing the Petitioner to deposit 20% of the compensation amount pending disposal of the main Criminal Petition

Counsel for the Petitioner/accused:

1. S A V RATNAM

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 10223 of 2025ORDER:

The instant criminal petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C) has been filed by the Petitioner/Accused, seeking to quash the Order dated 26.06.2025 passed by the learned VIII Additional District & Sessions Judge, East Godavari District at Rajamahendravaram in CrI.M.P.No.552 of 2025 in CrI.A.No.236 of 2025.

2. Heard Smt. S.A.V.Ratnam, learned counsel for the Petitioner and Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor representing the State/Respondent.

3. It is submitted by the learned counsel for the Petitioner and acceded to, by the learned Assistant Public Prosecutor that the subject matter of this Criminal Petition is squarely covered by the Order passed by this Court vide Criminal Petition No.5914 of 2024, dated 28.08.2024, wherein, it was held at para Nos. 7 and 8 as under :

"7. The Hon'ble Supreme Court in **Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Limited and Others**¹, referring above para in the case of **Surinder Singh Deswal @ Colonel S.S.Deswal and others**, held in paras 6 to 9 as under :

"6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of

¹ 2023 LiveLaw (SC) 776

deposit as provided in Section 148. However, in a case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.

7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the N.I. Act, it is always open for the Appellate Court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the Appellate Court comes to the conclusion that it is an exceptional case, the reasons for coming to the said conclusion must be recorded.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the Courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under Section 389 of the Cr.P.C. for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the Court has to consider whether the case falls in exception or not."

8. Therefore, in the light of above judgments of the Hon'ble Supreme

Court, normally, the Appellate Court will be justified in imposing condition of deposit as provided in Section 148 of N.I.Act. However, in a case, whether the Appellate Court is satisfied with the condition of deposit of 20% will be unjust, exception can be made for the reason specifically recorded. Hence, when the Appellate Court considers an application filed U/s. 389(3) Cr.P.C. corresponding to Section 430 of BNSS by the drawer of the cheque (accused), who was convicted for the offence U/s.138 of Negotiable Instruments Act, the Appellate Court has to consider whether it is exceptional case which warrants grant of suspension of sentence without imposing condition of deposit of 20% of fine/compensation amount. If the Appellate Court comes to said conclusion that it is an exceptional case, reasons for coming to such conclusion must be recorded."

4. Considering the submissions made and following the Order passed by this Court in Criminal Petition No.5914 of 2024, dated 28.08.2024, this Criminal Petition is allowed. The impugned order of the learned Appellate Court is set aside and restoring the application filed by the appellant therein under section 430 of BNSS before the Appellate Court. The petitioner/accused shall appear before the learned Appellate Court in 10 (ten) days from the date of receipt of copy of this order. On such appearance, the learned Appellate Court shall consider the application afresh and dispose of the same as expeditiously as possible, preferably within seven (07) days. Till then, the sentence imposed by the learned trial Court stands suspended. If the petitioner/accused fails to appear before the learned Appellate Court as directed above, the Criminal Petition stands dismissed without recourse to the Court.

As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

Sd/- M. PRABHAKAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//



SECTION OFFICER

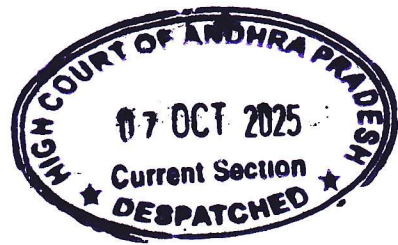
To,

1. The VIII Additional District & Sessions Judge, Rajamahendravaram, East Godavari District.
2. The V Additional Judicial First Class Magistrate, Rajamahendravaram, East Godavari District.
3. One CC to Sri S. A. V. Ratnam Advocate [OPUC]
4. Two CCs to the Public Prosecutor, High Court of Andhra Pradesh at Amaravathi [OUT]
5. Two CD Copies
Stu
Cnr

HIGH COURT

DATED:06/10/2025

ORDER
CRLP NO. 10223 OF 2025



ALLOWING THE CRIMINAL PETITION