



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

[3396]

**MONDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL REVISION CASE NO: 1197/2024

Between:

IVATHURI JAYARAM, S/O. LATE VEERESWAR RAO, AGED ABOUT 50 YEARS, C/O. VIRESWARA ESTATES, D.NO.13-55, VYSTANAVA STREET, BOBBILI (OR) C/O. D.NO. 10-197/5, 2ND LANE, RAJENDRA NAGAR, GUDIVADA, KRISHNA DISTRICT.

...PETITIONER

AND

- 1.VATHERI NARESH, S/O. SATYANARAYANA, AGED ABOUT 48 YEARS, R/O. D.NO. 34-132/A, GOWDU STREET, BOBBILI, VIZAINAGARAM DISTRICT
- 2.THE STATE OF A.P, REP. SUB-INSPECTOR OF POLICE, GAJUWAKA P.S. THROUGH PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.

...RESPONDENT(S):

Counsel for the Petitioner:

- 1.G.L. NAGESWAR RAO

Counsel for the Respondent(S):

- 1.PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The instant Revision filed under Section 397 & 401 of Cr PC praying to set aside the order dated 24.10.2024 in CrI.M.P.No.5452 of 2024 in C.C.No.124 of 2016 on the file of the Court of Additional Judicial First Class Magistrate, Bobbili, Vizianagaram District.

2. Heard Sri Yaswanth Karanki, learned counsel representing Sri G.L.Nageswara Rao, learned counsel for the Revision Petitioner. Notice

served on Respondent/Complainant, but none represented. Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor is in attendance.

3. Learned counsel for the Petitioner would submit that, though the matter is of the year 2016, which is a private complaint filed by Respondent/Complainant for the offence under Section 138 of the Negotiable Instruments Act, the Complainant could file the chief examination affidavit in the year 2024. Learned counsel would further submit that, on the given date, the Petitioner could not appear before the Court for the cross examination of P.W.1. Hence, he filed an application to recall P.W.1 for cross examination. The learned trial Judge without giving any opportunity to the Petitioner, dismissed the petition. Aggrieved thereby, the Petitioner/Accused preferred the present revision. Learned counsel would further submit that, during pendency of the present revision, when the matter reached the stage of Section 313 Cr.P.C examination, the Petitioner could not appear before the Court. As such, a Non-Bailable Warrant was issued against the Petitioner. However, a Coordinate Bench of this Court passed an order dated 31.01.2025 staying the execution of NBW issued against the Petitioner. Learned counsel would finally submit that, an opportunity may be given to the Petitioner to cross examine P.W.1 by fixing a date.

4. Considering the submissions made and a fair look at the impugned order, the record shows, P.W.1 was not cross examined by the Petitioner/Accused. The fact remains, the Petitioner could not proceed with the cross examination of P.W.1 as he suffered from viral fever on the given

date. Therefore, to afford a fair opportunity to the Petitioner to cross examine P.W.1, in the interest of justice, this Court is inclined to allow this petition, with the following conditions.

5. Petitioner shall pay an amount of Rs.5,000/- towards costs to the Complainant. Petitioner shall cross examine P.W.1 on the date to be fixed by the trial Court, failing which, the petition shall stand dismissed. So far as the NBW is concerned, the learned trial Judge has rightly issued the same since the presence of the Petitioner is very much necessary for his examination under Section 313 Cr.P.C. However, the Petitioner is at liberty to file an appropriate application to recall the warrant and the learned trial Judge may take appropriate decision according to law by taking necessary surety to assure his presence in the matter.

6. With the above observations, this Criminal Revision Case is allowed.

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

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:10.03.2025
Dinesh

HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRL.R.C.No.1197 of 2024

Dt.10.03.2025

Dinesh