



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

[3560]

WEDNESDAY, THE TWENTY NINETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL PETITION NO: 319/2026

Between:

1. PV RAJALAKSHMI, W/O. N. SYAMASUNDARA NAIDU, AGED ABOUT 76 YEARS, OCC RETIRED PROFESSOR, D.NO. 19-14-11, RAGHAVENDRA NAGAR, KESAVAYANAGUNTA, TIRUPATI TOWN, CHITTOOR DISTRICT, A.P.

...PETITIONER/ACCUSED

AND

1. G V SRINIVAS RAO, S/O. SRI. KONDAL RAO, AGED ABOUT 65 YEARS, OCC RETIRED AGM, R/O D.NO.2-2-1130/26/A/C/5 E, PRASHANTH NAGAR NEW NALLAKUNTA, HYDERABAD.

2. G SUDHARANI, W/O. G.V. SRINIVAS RAO, AGED ABOUT 60 YEARS, OCC BUSINESS, R/O D.NO.2-2-1130/26/A/C/5 E, PRASHANTH NAGAR, NEW NALLAKUNTA, HYDERABAD.

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

...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 may be pleased to quash the order dated 12.08.2025 dismissing the CrI.M.P.No.1255/2025 in C.C.No.124/2019 on file of Honble III Additional Judicial Magistrate of First Class, Tirupati to duly allow the CrI.M.P.No.1255 as prayed for in the interest of justice and pass such

Counsel for the Petitioner/accused:

1.NAMINENI PAVAN KUMAR

Counsel for the Respondent/complainant(S):

1.V ROOPESH KUMAR REDDY

2.PUBLIC PROSECUTOR

The Court made the following Order:

The instant criminal petition has been filed against the order dated 12.08.2025 passed by the learned III Additional Judicial Magistrate of First Class, Tirupati, in Crl.M.P.No.1255 of 2025 in C.C.No.124 of 2019.

2. Brief fact of the case is that:

The present petitioner being a complainant has filed petition under Section 138 of N.I.Act against the present respondents 1 and 2 for peculiar reasons, thereby, the examination-in-chief of PW.1 was held in the year 2012 thereafter cross-examination could not be performed ultimately it was concluded in the year 2025, in five intervals. After completion of cross-examination, the petitioner filed an application for re-examination being Crl.M.P.No.1255 of 2025. Learned Court below, after hearing the parties, has turned out the application for re-examination, by passing the impugned order. Challenging the same, the instant criminal petition has been preferred.

3. Learned counsel for the petitioner submits that impugned order passed by the learned Court below is improper and illegal. Chief-examination was held in the year 2012. Matter was stalled for several reasons for a long time. Thereafter the cross-examination was held by the respondents and completed in the year 2025. At this juncture to elicit truth and to explain matter referred to cross-examination, petitioner may be permitted to re-examination of PW.1. He further submits that the purpose of re-examination of petitioner is required to elicit truth only. Accordingly, the impugned order is liable to be set aside.

4. Learned counsel for the respondents submits that the matter may be remanded back as the impugned order passed by the learned trial Court has not assigned sufficient reasons.

5. Heard the learned counsel for the parties.

6. It appears that the instant matter having its peculiar nature, evidence of PW.1 continued for long period. Sections 137 and 138 of the Evidence Act have laid down the specific purpose how examination of witness can be done. To decide the issue properly, Sections 137 and 138 of the Evidence Act are set out hereunder:

137. Examination-in-chief – The examination of witness by the party who calls him shall be called his examination-in-chief.

Cross-examination – The examination of a witness by the adverse party shall be called his cross-examination.

Re-examination – The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

138. Order of examinations – Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party called him so desires) re-examined.

The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

Direction of re-examination – The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

7. The issue was also referred before the Hon'ble Supreme Court in ***Vinod Kumar vs. State of Punjab*** reported in **2015 (3) SCC 220**, wherein it is held that

“57.4. In fact, it is not at all appreciable to call a witness for cross-examination after such a long span of time. It is imperative if the examination-in-chief is over, the cross-examination should be completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross-examination. It is inconceivable in law that the cross-examination should be deferred for such a long time. It is anathema to the concept of proper and fair trial.

57.5. The duty of the Court is to see that not only the interest of the accused as per law is protected but also the societal and collective interest is safeguard. It is distressing to note that despite series of judgments of this Court, the habit of granting adjournment, really an ailment, continues. How long shall be say, “Awake! Arise!”. There is a constant discomfort. Therefore, we think it appropriate that the copies of the judgment be sent to the learned Chief Justices of all the High Courts for circulating the same among the learned trial Judges with a command to follow the principles relating to trial in a requisite manner and not to defer the cross-examination of a witness at their pleasure or at the leisure of the defence counsel, for it eventually makes the trial an apology for trial and compels the whole society to suffer chicanery. Let it be remembered that law cannot be allowed to be lonely; a destitute.”

8. Learned counsel for the petitioner has also assisted this Court regarding the relevant judgment of the Hon’ble Supreme Court in ***Rammi Alias Rameshwar vs. State of M.P.***, reported in ***(1999) 8 Supreme Court Cases 649*** and paragraphs 17 and 18 read as follows:

17. There is an erroneous impression that re-examination should be confined to clarification of ambiguities which have been brought down in cross-examination. No doubt, ambiguities can be resolved through re-examination. But that is not the only function of the re-examiner. If the party who called the witness feels that explanation is required for any matter referred to in cross-examination he has the

liberty to put any question in re-examination to get the explanation. The Public Prosecutor should formulate his questions for that purpose. Explanation may be required either when ambiguity remains regarding any answer elicited during cross-examination or even otherwise. If the Public Prosecutor feels that certain answers require more elucidation from the witness he has the freedom and the right to put such questions as he deems necessary for that purpose, subject of course to the control of the court in accordance with the other provisions. But the court cannot direct him to confine his questions to ambiguities alone which arose in cross-examination.

18. *Even if the Public Prosecutor feels that new matters should be elicited from the witness he can do so, in which case the only requirement is that he must secure permission of the court. If the Court thinks that such new matters are necessary for proving any material fact, courts must be liberal in granting permission to put necessary questions.*

9. Having heard the learned counsel for the parties and also considering the observations of the Hon'ble Supreme Court, if we clearly follow the order of examination, the statute under Section 138 of Evidence Act depicted that there shall be first examination-in-chief, then cross-examination, thereafter, if the party calling him so desire, re-examination. The direction of re-examination is also noted therein; it has been specifically clarified that re-examination shall be directed to explain the matters referred in cross-examination. The first portion of direction of re-examination, specifically enable the Court as well as the party to explain the matter referred in cross-examination and in re-examination. Re-examination of any witness is a right of party as well as the right of Court to be done at the end of cross-examination. There is no specific direction that re-examination can be done only in

discretion of Court, the word “shall” is codified in first portion of direction; in the later portion, it is specifically mentioned that if new matter is required to be introduced to elicit the truth in the matter or explain any new issue properly, the direction/permission of the Court is required, and at that score adverse party may further cross-examine on that matter.

10. So after scanning the entire codified direction as well as the direction of the Hon’ble Supreme Court in *Rammi @ Rameshwar’s* case supra, it appears that the purpose of re-examination is always available to the party who called the witness if it relates to only regarding explanation of the matters referred in cross-examination. At that time no permission of Court is required. The permission of Court is only required if new fact or issue (must be relevant) is required to be introduced. In this case, it appears that cross-examination was held much later of examination-in-chief that too after long five occasions.

11. Without going into the merit of the case to make it clear that re-examination of this case if the party call him (the petitioner) intends to do the re-examination, the Court should not restrain the petitioner to re-examination. On the score, the impugned order passed by the learned Court below is required to be set aside and the same hereby set aside.

12. It further brought to notice before this Court that during the pendency of this criminal petition, the petitioner has placed certain documents before the learned trial Court, with an application for recalling; which were received by the learned trial Court subject to proof of relevancy. The fact suggests that case is pending since 2012 already 14 years elapsed. At this juncture to

enable parties as well as the Court to decide the matter promptly, I allow the petitioner to file written re-examination (Parawise) in the form of affidavit including the new documents which he intends to rely, during the pendency of the instant revision case. On that score, the copy of the written affidavit shall be supply, well in advance, to the learned counsel for the respondents. Learned Court below shall examine the written affidavit, if it appears to the Court that portions which are explanatory to the cross-examination, the same shall be allowed and if it appears that if some new matter is introduced the accused persons shall given liberty to cross-examination. Petitioner shall file affidavit within two weeks from the date of receipt of this order.

13. Learned counsel for the respondents submits that the respondents intend to file a compromise application as per directions of the Hon'ble Supreme Court. The matter of compromise is not placed before this Court in this criminal petition. It is the domain of learned Court below to decide issue in accordance with law.

14. On the above observation, the Criminal Petition is disposed of. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand disposed of.

JUSTICE SUBHENDU SAMANTA

Date : 29.04.2026

SPP

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL PETITION No.319 of 2026

Dated 29.04.2026

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