HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL PETITION No. 5730 of 2020

Between:

Guduru Uma Maheswara Rao,
S/o. Venkateswarlu, aged 29
years, D.No.36-21-1314,
Vasantharayapuram, Guntur
Town, Andhra Pradesh,
Pin-522002.

..Petitioner

Vs.

State of Andhra Pradesh, Rep
by its Public Prosecutor, High
Court of Andhra Pradesh and
another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 17.03.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K SREENIVASA REDDY

1.	Whether Reporters of Local newspapers may be allowed to see the Judgments?	Yes/No
2.	Whether the copies of judgment may be marked to Law Reporters/Journals?	Yes/No
3.	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	Yes/No

JUSTICE K. SREENIVASA REDDY

THE HON'BLE SRI JUSTICE K SREENIVASA REDDY

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Pradesh and another

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<GIST:

>HEAD NOTE:

! Counsel for the petitioner : Sri Srinivasa Rao Narra

^ Counsel for respondents : Sri Sravan Kumar Mannava

? CASES REFERRED : 1) AIR 1992 SC 604

APHC010354132020

IN THE HIGH COURT OF ANDHRA PRADESHAT AMARAVATI **[3327]**
(Special Original Jurisdiction)

TUESDAY,THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT
THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL PETITION NO: 5730/2020

Between:

1. GUDURU UMA MAHESWARA RAO,, S/O. VENKATESWARLU, AGED 29 YEARS, D.NO. 36-21-1314, VASANTHARAYAPURAM, GUNTUR TOWN, ANDHRA PRADESH, PIN-522002.

...PETITIONER/ACCUSED

AND

1. STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH.
2. VELURI VELUGONDA REDDY, S/O. LAKSHMA REDDY, 54 YEARS, MANAGING DIRECTOR, SINDHURI HOTEL, 4TH LANE, MAIN ROAD, BRODIPET, GUNTUR TOWN, ANDHRA PRADESH.

...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 Courtpleased to Quash the proceedings against the Petitioner/Accused No.5 in CC. No. 830 /2018 in Cr.No.552/20I3 in Arundalpet P.S. registered U/s. 408,120(b) IPC which is pending before the Honble V Addl. Junior Civil Judge Guntur and pass

IA NO: 1 OF 2020

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 pleased to stay all further proceedings including the appearance of the Accused in C.C. No. 830/2018 in Cr.No.552/2013 in Arundalpet P.S. registered U/s. 408, 120(b) of IPC which is pending trial before the Hon'ble V Addl. Junior Civil Judge:: Guntur and pass

Counsel for the Petitioner/accused:

1. SRINIVASA RAO NARRA

Counsel for the Respondent/complainant(S):

1. SRAVAN KUMAR MANNAVA
2. SRAVAN KUMAR MANNAVA-11624/AP/256/1990

The Court made the following:

THE HON'BLE SRI JUSTICE K.SREENIVASA REDDY

Criminal Petition No.5730 of 2020

ORDER:-

The present Criminal Petition is filed seeking to quash the proceedings against the petitioner/Accused No.5 in C.C.No.830 of 2018 on the file of the V Additional Junior Civil Judge, Guntur (relating to Cr.No.552 of 2013 in Arundalpet Police Station) registered for the offences punishable under Sections 408 and 120B IPC.

2. The petitioner is arrayed as Accused No.5 in the aforesaid Calendar Case. The allegations in the charge sheet would go to show that A.1 to A.8, who worked in various positions in Hotel Sindhuri, 4th Lane, Brodipet main road, Guntur, colluded with each other, prepared duplicate receipts, collected money from customers and not deposited the same in the account of the Hotel, and committed fraud to a tune of Rs.50,93,792/- and caused loss to 2nd respondent/defacto complainant, who is the Managing Director of the said Hotel.

3. Pursuant to a police report dated 08.08.2013 lodged by 2nd respondent/*defacto* complainant, who is the Managing Director of Hotel Sindhuri, 4thLane, Brodipet main road, Guntur, a case in

crime No. 552 of 2013 in Arundalpet Police Station was registered against A.1 to A.3, and after completion of investigation, police laid charge sheet against A.1 to A.8, which was taken on file as the aforementioned Calendar Case.

4. Learned counsel for the petitioner submits that the petitioner was working as a Boy in Sindhuri Hotel, and he has no connection with the collection of amounts from the customers of the hotel, and that even if entire accusations in the police report, statements of witnesses and the charge sheet are accepted as true and correct, there is no iota of material to connect the petitioner with the offences alleged, and hence, he prays to quash the impugned proceedings against the petitioner.

5. On the other hand, learned counsel appearing for 2nd respondent conceded to the submission made by the learned counsel for the petitioner to the extent that except a vague allegation in statements of one of the witnesses, there is no other material against the petitioner herein. However, he submits that all the accused, including the petitioner, misappropriated amount, and hence, the petitioner is also shown as accused in the present case. He submits that the truth or otherwise of the accusations

has to be decided during trial, and hence, there are no grounds to quash the impugned proceedings at this stage.

6. Learned Assistant Public Prosecutor appearing for 1st respondent-State too concurs with the submissions made by the learned counsel for 2nd respondent.

7. Heard. Perused the record.

8. There cannot be any dispute that inherent powers of this Court under Section 482 Cr.P.C. can be exercised to prevent abuse of process of Court or to give effect to any order under the code or to secure the ends of justice. This Court is also conscious of the fact that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases and that the Court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the report. On this aspect, it is pertinent to refer to the Judgment of the Hon'ble Apex court in *State of Haryana Vs. Ch.Bhajanlal and ors.*[1], whereinthe Apex Court held,

> "In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the

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[1] *AIR 1992 SC 604*

exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a

> criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;
> (7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

9. This Court perused the police report lodged by the 2nd respondent/defacto complainant and the allegations in the statements of witnesses recorded under Section 161 CrPC. The statement of 2nd respondent/defacto complainant (L.W.1) goes to show that all the allegations are levelled against A.1 to A.4 stating that A.1, who was working as the General Manager of the Hotel, wrote advance receipt bills without keeping carbon paper and made use of the money of the Hotel for his personal use, misappropriated the amount to a tune of Rs.2.00 lakhs, and cheated the Hotel; that at the time of verification of the Hotel records by their Chartered Accountants, it came to light that A.2 and A.3 (Receptionists)and A.4 (Front Office Manager) are also involved in the said acts; that Vasa Jali Reddy (L.W.3) was working as an Accountant in the Hotel since 2003 and N.Koteswara Rao (L.W.2) was working in Hotel as Operation

Manager; that as A.1 proceeded on leave from 1.8.2013 to 7.8.2013, N.Koteswara Rao (L.W.2) was acting as in-charge General Manager; that Advance Receipt books, Accounts books of the Hotel were being printed in Siri Screen Prints owned by Ganapathi Reddy; that A.1, in conspiracy with A.4, got printed Advance Receipt books unauthorizedly and used the same and not deposited huge amounts in the Hotel account.

The allegations also include the amounts collected by A.2 on various dates from various customers and not deposited the same in the Hotel account. The allegations also include the amount collected by A.4 on 02.05.2013 from one T.Sambasiva Rao after issuing receipt, but not depositing the same in Hotel account.

It is also alleged that A.1, being the General Manager, has to supervise the activities of A.2 to A.4, and that A.1 to A.4 conspired together and cheated and caused loss to the Hotel.

10. The statement of L.W.2 (N.Koteswara Rao), who worked as Operation Manager of the Hotel, also runs on the same lines with that of 2nd respondent/defacto complainant. He also stated the amounts collected by A.3 on various dates from various customers and not depositing the same in the Hotel account.The

statement of L.W.3 (Vasa Jali Reddy), who worked as an Accountant in the Hotel, also runs on the same lines with that of L.W.2 (N.Koteswara Rao).

11. L.W.4-I.Ganapathi Reddy is the owner of Siri Screen Printers, where the bill books were got printed by the Hotel. L.W.6-Thirumalasetty Rajesh, a software professional, assisted the Investigating Officer in the course of investigation on technical aspects. L.W.7-S.Gangadhar worked in Computer Cartel, which provided software to the Hotel.

12. L.W.5-K.Siva Sankara Reddy was a Partner in M.Bhaskar Reddy & Co., Chartered Accountants. In his statement, there is a bald and vague averment that A.1 to A.4, in conspiracy with A.5 to A.8, did the acts alleged.

13. The offences alleged against the petitioner/A.5 are punishable under Section 408 and 120B IPC. The necessary ingredients to constitute an offence punishable under Section 408 IPC, are that the accused must be a clerk or a servant, or employed as such; that the accused must have been entrusted in this capacity with property or dominion over property; that the accused must dishonestly misappropriate, convert to their own use, or dispose of the property, and that the act must be in

violation of any direction of law (how the trust should be discharged) or a legal contract, express or implied.

The necessary ingredients to constitute an offence punishable under Section 120B IPC are that there must be an agreement between at least two individuals; that the agreement must be to commit an illegal act or to achieve a lawful goal through illegal means; that the conspirators must share a meeting of the minds and a common intent to execute the illegal plan.

14. In the statements of material witnesses {L.W.1-2nd respondent/defacto complainant, who is the Managing Director, L.W.2-N.Koteswara Rao and L.W.3 (Vasa Jali Reddy), who were working as Operation Manager and Accountant respectively, of the Hotel}, there are specific accusations as against the A.1 to A.4 that A.1, who was working as the General Manager of the Hotel, wrote advance receipt bills without keeping carbon paper and made use of the money of the Hotel for his personal use, misappropriated the amount to a tune of Rs.2.00 lakhs, and cheated the Hotel; that at the time of verification of the Hotel records by their Chartered Accountants, it came to light that A.2 and A.3 (Receptionists) and A.4 (Front Office Manager) are also involved in the said acts; that as A.1 proceeded on leave from

1.8.2013 to 7.8.2013, N.Koteswara Rao (L.W.2) was acting as in-charge General Manager; that Advance Receipt books, Accounts books of the Hotel were being printed in Siri Screen Prints owned by Ganapathi Reddy; that A.1, in conspiracy with A.4, got printed Advance Receipt boos unauthorizedly and used the same and not deposited huge amounts in the Hotel account. The allegations also include the amounts collected by A.2 and A.3 on various dates from various customers and not depositing the same in the Hotel account. According to them, A.1 to A.4 were entrusted with the work of collecting money from the customers, who occupy the rooms of the said hotel. It is alleged that the accused failed to remit the amount to the account of the hotel management after collecting the money and made use of the receipts which were printed unauthorizedly and writing the bills without keeping carbon paper, and utilized the funds for their personal expenses and misappropriated the amount to a tune of Rs.50,93,792/- and caused loss to the Hotel.

15. In the statements of material witnesses, there is no reference of name of the petitioner/A.5 nor a specific role or act is attributed against the petitioner/A.5. According to the learned counsel for the petitioner, the petitioner was working as a Boy in

the Hotel and he has no connection with the financial affairs of the Hotel nor there was any entrustment.

16. This Court perused the chargesheet and the statements of the witnesses. Neither the statements of the material witnesses nor the charge sheet does reveal any specific overt-act as against the petitioner herein, nor any *prima facie* material is collected against him during the course of investigation, connecting him to the offences alleged. All the allegations are directed as against A.1 to A.4. Except a vague and bald averment in the statement of L.W.4-K.Siva Sankar Reddy, there is no specific role attributed as against the petitioner. Basing on the said bald averment, the petitioner herein is arrayed as an accused in the charge sheet. On aperusal of the statements of the witnesses goes to show that the General Manager of the said hotel and others have collected money. But, nowhere, it is alleged that the petitioner collected the money from the customers. In the absence of any specific accusations as against the petitioner, it is nothing but abuse of process of law in making him to face the ordeal of trail.

17. In the considered opinion of this Court, even if the uncontroverted allegations made in the FIR and the material collected in support of the same are accepted as true and correct,

no *prima facie* case for the offences alleged, is made out as against the petitioner. This case squarely falls under Clause (3) of the observations of the Hon'ble Apex Court in *State of Haryana Vs. Ch.Bhajanlal and ors*case (1 supra). In view of the aforesaid facts and circumstances of the case and in the absence of any material against the petitioner herein, no purpose would be served in directing the petitioner herein to face entire ordeal of trial. Therefore, continuation of the impugned proceedings against the petitioner is nothing but abuse of process of Court.

18. Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.830 of 2018 on the file of the learned V Additional Junior Civil Judge, Guntur are quashed in respect of the petitioner/Accused No.5.

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Petition shall stand closed.

JUSTICE K. SREENIVASA REDDY

17.03.2026
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THE HON'BLE SRI JUSTICE K.SREENIVASA REDDY

Criminal Petition No.5730 of 2020

Date:17.03.2026

SCH/DRK