



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

[3521]

MONDAY, THE 6th DAY OF JULY 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

WRIT PETITION NO: 17890/2026

Between:

1.DUVVADA SRINIVAS, S/O. LATE DUVVADA KRISHNA MURTHY
AGED 60 YEARS, R/O. VENKATESWARA COLONY-1,
VENKATESWARA COLONY-1, TEKKALI, SRIKAKULAM DISTRICT.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, DEPARTMENT OF HOME, SECRETARIAT,
VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT. 522238

2.THE DIRECTOR GENERAL OF POLICE, STATE OF ANDHRA
PRADESH, MANGALAGIRI, GUNTUR DISTRICT. 522002

3.THE SUPERINTENDENT OF POLICE, SRIKAKULAM DISTRICT,
SRIKAKULAM. 532001

4.THE CIRCLE INSPECTOR OF POLICE, KOTHURU CIRCLE,
SRIKAKULAM DISTRICT. 532001

5.THE STATION HOUSE OFFICER, HIRAMANDALAM POLICE
STATION, SRIKAKULAM DISTRICT.532459

6.VANJARAPU SIMHACHALAM, S/O. APPAYYA, AGED 30 YEARS,
R/O. GOTTA VILLAGE, HIRAMANDALAM MANDAL, SRIKAKULAM

DISTRICT. 532459

...RESPONDENT(S):

Counsel for the Petitioner:

1.G L NAGESWAR RAO

Counsel for the Respondent(S):

1.GP FOR HOME

The Court made the following:

ORDER:

The Writ Petition has been filed for the following relief:

“...to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in registering FIR No. 21/2025 of Hiramandalam Police Station, Srikakulam District, against the petitioner and, pursuant thereto, calling the petitioner to the police station frequently by issuing notices under Section 41-A of the Code of Criminal Procedure, 1973 (for brevity, ‘the Cr.P.C.’)/35(3) of ‘the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity, ‘the BNSS’) one after the other, though the entire material is already available with them for further investigation and no custodial investigation or further questioning of the petitioner is required since he has already answered all questions posed during his examination before the police, as illegal, arbitrary, mala fide, violative of principles of natural justice and constitutional guarantees, and to consequently quash all further proceedings including arrest and repeated summoning of the petitioner pursuant to FIR No. 21/2025 of Hiramandalam Police Station, Srikakulam District, in the interest of justice...”

2. Heard the learned Counsel for Petitioner and learned Assistant Government Pleader.

3. Mr.G.L.Nageswara Rao, learned counsel for the Petitioner, submits that the impugned action of the respondent police in repeatedly summoning the Petitioner under Section 35(3) of ‘the BNSS.,’ despite his full cooperation and despite the availability of all investigative material, is wholly arbitrary,

unreasonable and violative of the fundamental guarantees enshrined under Articles 14, 19 and 21 of the Constitution of India. It is trite law that investigation must be fair, impartial and free from *mala fides*, and cannot be converted into an instrument of harassment. The Hon'ble Supreme Court has consistently held that continuation of criminal proceedings without any legally sustainable foundation amounts to abuse of process of law. In the present case, the allegations are demonstrably vague, politically motivated, and bereft of any cogent material. The delay in lodging the complaint, coupled with the absence of any *prima facie* evidence, renders the FIR itself unsustainable. Therefore, the repeated insistence on the Petitioner's personal attendance, notwithstanding his serious medical condition, is an arbitrary exercise of power that deserves to be interdicted by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

4. It is further submitted that the Petitioner has already subjected himself to exhaustive interrogation, lasting nearly nine and a half hours, during which every query of the Investigating Officer was answered truthfully and comprehensively. The medical records placed before this Court, including the CT Coronary Angiography revealing Coronary Artery Disease and the diagnosis of Hypertension and prior Cerebrovascular Accident, unequivocally establish that the Petitioner is under continuous medical supervision and incapable of repeated physical attendance. The Respondent Police, despite

being in possession of these medical records, have persisted in issuing notices one after another, thereby disregarding the settled principles of fair investigation and the Petitioner's right to life and health. Such conduct amounts to a colourable exercise of power, actuated by malice and political vendetta, and is liable to be declared unconstitutional. This Court is duty-bound to protect the Petitioner from coercive steps that imperil his health and liberty.

5. Lastly, it is submitted that the continuation of the FIR and the repeated summons serve no legitimate purpose, as the entire material necessary for investigation has already been collected. Even if the matter were to proceed to trial, there is no possibility of conviction, rendering the proceedings an exercise in futility. The Hon'ble Supreme Court has time and again emphasized that criminal law cannot be permitted to be used as a weapon of oppression or vendetta. In the facts of the present case, the FIR is nothing but an abuse of process, and the repeated notices are a manifestation of harassment under the guise of investigation. The Petitioner has no efficacious alternative remedy and is therefore constrained to invoke the extraordinary jurisdiction of this Court. It is urged that this Court may be pleased to issue a writ of mandamus declaring the impugned action as illegal, arbitrary and unconstitutional, quash all further proceedings pursuant to FIR No.21/2025.

6. *Per contra*, Sri P.Ajay Babu, learned Assistant Government Pleader submits that the present Writ Petition is thoroughly misconceived, premature and not maintainable in law, inasmuch as it seeks unwarranted judicial interdiction into a lawful and ongoing criminal investigation. Learned Assistant Government Pleader submits that FIR No.21 of 2025 discloses cognizable offences warranting a full-fledged investigation and that the Investigating Agency is statutorily obliged to collect all relevant material, verify facts, examine witnesses and ascertain the complicity, if any, of the persons involved. It is contended that the extraordinary jurisdiction of this Court under Article 226 of the Constitution is not intended to stifle a legitimate investigation at its nascent stage, particularly when the investigating machinery is acting strictly within the contours of the powers conferred under 'the BNSS.' The repeated issuance of notices under Section 35(3) of 'the BNSS.,' cannot, by any stretch of imagination, be characterized as harassment, *mala fide* action or abuse of process, since the said provision itself embodies a statutory safeguard against unnecessary arrest and enables the Investigating Officer to secure the cooperation of a suspect or accused during investigation through lawful means.

7. Learned Assistant Government Pleader would submit that the Petitioner's attempt to portray the statutory process as punitive is a deliberate distortion of facts intended solely to obstruct and derail the investigation. It is

further argued that the allegations of political vendetta, *mala fides* and arbitrary exercise of power are bald, omnibus and unsupported by any legally admissible material, and that mere allegations of ulterior motives cannot be a ground to invalidate investigative proceedings undertaken pursuant to a duly registered FIR. The settled principle of criminal jurisprudence is that courts ought not to interfere with investigation unless a clear case of jurisdictional error, manifest illegality or abuse of process is demonstrated, none of which is remotely established in the present case.

8. The learned Assistant Government Pleader would further submit that the Petitioner has not extended full and meaningful cooperation to the Investigating Officer as claimed and, on the contrary, has adopted an obstructive and evasive approach in the course of investigation. In spite of several opportunities being afforded, the Petitioner allegedly failed to furnish satisfactory explanations to material questions, offered evasive and self-serving responses, and on several crucial aspects maintained complete silence, thereby impeding the progress of the investigation. It is contended that the subjective assertion of the Petitioner that all relevant material has already been collected and that no further interrogation is necessary cannot override the statutory discretion vested in the Investigating Officer to determine the scope and nature of investigation required for effectively unearthing the truth. The plea that the Petitioner's medical condition renders

him immune from further questioning is also disputed, as there exists no medical opinion prohibiting his appearance before the Investigating Agency, and every reasonable accommodation consistent with law has been extended to him. Learned Assistant Government Pleader submits that investigation is a dynamic and evolving process, and the necessity for further examination of a suspect may arise upon discovery of fresh facts, documents or circumstances, the sufficiency or adequacy of which cannot be adjudicated by the Petitioner himself. It is therefore argued that the prayer seeking a blanket restraint against further summons, interrogation, investigation or any consequential action pursuant to the FIR is wholly untenable and would amount to substituting judicial discretion for investigative discretion, contrary to settled constitutional and criminal law principles. In the absence of any demonstrable violation of statutory provisions or infringement of fundamental rights, the writ petition deserves dismissal in limine, leaving the Investigating Agency free to complete the investigation in accordance with law, uninfluenced by any observations or allegations made by the Petitioner.

9. This Court is of the considered view that the right of an accused to remain silent during interrogation is not a mere procedural nicety but a substantive constitutional guarantee flowing from Article 20(3) of the Constitution of India, which protects every person accused of an offence from being compelled to be a witness against himself. This privilege against self-

incrimination is the bedrock of a fair investigation and a fair trial, and it cannot be whittled down merely because an Investigating Officer considers it convenient or necessary for the progress of investigation. The accused is not obliged to make a clean breast of things before the police in the manner of a confession, nor can silence on his part, howsoever inconvenient to the prosecution, be treated as an act of defiance or non-cooperation warranting coercive consequences. The analogy is apt: the Police Station is not a confessional, and the Investigating Officer is not a priest entitled to demand disclosure of every truth residing in the mind of the accused. To insist otherwise would be to convert an investigative process into an inquisitorial one, a concept alien to our criminal jurisprudence.

10. At the same time, this Court cannot lose sight of the fact that investigation is a statutory function entrusted to the police for the larger purpose of unearthing the truth, collecting evidence, and ensuring that the machinery of criminal justice does not grind to a halt on account of non-cooperation of a suspect. The right to silence, therefore, cannot be stretched to the extent of absolving the accused of every civic and legal obligation to participate in the investigative process when lawfully called upon to do so. There exists a fine but discernible distinction between the right not to incriminate oneself and the duty to appear, when required, before the Investigating Officer for the purposes of identification, clarification, or

confrontation with material already gathered. The former is inviolable, the latter is a reasonable regulatory requirement necessary for the investigation to reach its logical culmination.

11. It is in this context that the provisions of Section 35(3) of 'the BNSS.,' corresponding to Section 41-A of 'the Cr.P.C.,' assume significance. This provision was engrafted into the statute book as a protective safeguard for the accused, to obviate the necessity of arrest in cases where the presence of the accused can be secured merely through a notice requiring his appearance before the Investigating Officer. It was never intended to be an instrument of harassment nor a mechanism to be misused for repeated and purposeless summoning of an accused who has already extended cooperation. Equally, it was not intended to be a shield behind which an accused could indefinitely evade legitimate investigative requirements. The provision, in essence, represents a legislative balance between individual liberty and the imperative of effective law enforcement, and Courts must be astute to ensure that this balance is not disturbed by either an overzealous investigating agency or an obstructive accused.

12. Bearing this balance in mind, this Court is of the view that mere issuance of successive notices, without more, cannot *ipso facto* be characterized as *mala fide* or arbitrary, particularly when the Investigating Officer has a statutory duty to determine, in his own discretion, what further

material, clarification, or confrontation is required for completion of investigation. The sufficiency or adequacy of material already collected is a matter within the domain of investigative discretion, and it is not for this Court, exercising jurisdiction under Article 226 of the Constitution of India, to substitute its own assessment for that of the Investigating Officer at the stage of investigation itself. Judicial interference at this stage must be reserved for cases demonstrating manifest illegality, jurisdictional error, or a clear abuse of process, and cannot be readily inferred from the mere fact of repeated notices, especially when the accused has not placed on record any material conclusively establishing *mala fide* intent on the part of the investigating agency.

13. However, this deference to investigative discretion cannot become a license for endless or repetitive summoning without any discernible purpose or timeline. An investigation, howsoever wide its statutory contours, must be conducted with due expedition and cannot be allowed to continue in perpetuity, subjecting the accused to a state of continuous uncertainty and harassment. The constitutional guarantee under Article 21 of the Constitution of India, which protects the right to life and personal liberty, necessarily encompasses within its ambit the right to a speedy and fair investigation, free from vexatious or protracted proceedings. Where an accused has already cooperated substantially, and more so where there exist *bona fide* concerns

regarding his health, the Investigating Officer is duty-bound to conduct the remaining investigation in a manner that is humane, time-bound, and proportionate to the requirement of the case.

14. It is for this reason that this Court considers it necessary and appropriate to strike a via media between the competing claims of the Petitioner and the investigating agency, rather than either quashing the FIR or granting a blanket restraint against further investigation as prayed for. The relief of quashing, at this premature stage, would amount to foreclosing a lawful investigation into cognizable offences without any adjudicated finding of abuse of process, while an unqualified restraint against further summons would impermissibly trench upon the statutory domain of the Investigating Officer. The appropriate course, therefore, is to direct both parties to work in tandem: the Petitioner to render full and genuine cooperation, and the Investigating Officer to conduct and complete the investigation within a reasonable and defined timeframe.

15. Accordingly, this Court directs that the Petitioner shall cooperate with the Investigating Officer in all respects necessary for the effective conduct of investigation and shall not adopt an evasive or obstructive attitude under the guise of exercising his right to silence. Correspondingly, the Investigating Officer shall complete the investigation with due promptitude and shall file the appropriate chargesheet or final report or proceedings before the learned

Jurisdictional Magistrate strictly in accordance with law, without unnecessary or repetitive summoning once the Petitioner has extended cooperation on the material aspects of the case.

16. In order to lend certainty and structure to this process, this Court further directs that a schedule shall be drawn up by the Investigating Officer, by serving a copy of it on the Petitioner in advance, delineating the dates and time on which he shall appear before the Investigating Officer. Such a schedule serves the twin purposes of ensuring that the investigation does not languish indefinitely to the prejudice of the Petitioner, and that the Investigating Officer is not deprived of the reasonable time and opportunity required to bring the investigation to its logical conclusion. This mechanism also introduces transparency and mutual accountability, thereby minimizing the scope for future allegations of harassment or non-cooperation from either side.

17. Insofar as the request of the Petitioner to be permitted to appear before the Investigating Officer accompanied by a Legal Aid Counsel is concerned, this Court finds the same to be a reasonable and salutary safeguard, consistent with the constitutional guarantee of legal assistance and the principles of fair investigation. The presence of a Legal Aid Counsel does not in any manner impede or dilute the investigative process, rather, it reinforces the fairness of the proceedings by ensuring that the rights of the accused are

duly safeguarded while he renders cooperation to the investigating agency. Such a facility is particularly warranted in cases involving a Petitioner with a documented medical condition, where the presence of Counsel would also serve to alleviate any undue stress or anxiety arising from repeated interrogation.

18. In view of the foregoing discussion, this Court is of the considered opinion that the ends of justice would be sufficiently met by directing a cooperative and time-bound completion of investigation, rather than by granting the extraordinary relief of quashing the FIR or restraining further investigation altogether. Such a course gives due effect to the constitutional rights of the Petitioner under Articles 20(3) and 21, while simultaneously preserving the statutory authority and discretion of the investigating agency under 'the BNSS,' thereby ensuring that neither individual liberty nor the collective interest in effective law enforcement is subordinated to the other.

19. With the above observations and directions, the Writ Petition is disposed of. No order as to costs.

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

DR. Y. LAKSHMANA RAO, J

Date: 06.07.2026
VTS/PRA

Be that as it may, the accused has the right to remain silent. The Investigating Officer is not expected to secure cooperation from the accused in the manner of a devotee giving confession before a priest in church.

9. However, the Petitioner is also duty-bound to cooperate with the Investigating Officer for effective investigation and to enable filing of appropriate proceedings before the learned Trial Court. The provisions of 'the BNSS'/'the Cr.P.C.', empowers the Investigating Officer to take appropriate measures against an accused who misuses the notice or the leverage given under Section 35(3) of 'the BNSS'. Therefore, both the Petitioner and the Investigating Officer must work in tandem to ensure timely completion of the investigation.

10. Accordingly, the Writ Petition is disposed of with a direction that the Petitioner shall cooperate with the Investigating Officer, and the Investigating Officer shall complete the investigation and file appropriate proceedings before the learned Jurisdictional Magistrate in accordance with law. A schedule shall be drawn up by the Investigating Officer, in consultation with the Petitioner, to ensure completion of the investigation within a reasonable time.

11. Mr.G.L.Nageswara Rao, learned counsel for the Petitioner, submits that the Petitioner may be permitted to appear before the Investigating Officer along with a legal aid counsel. The request for permitting the Petitioner to be

accompanied by a legal aid counsel is appealing, sound, and convincing. The permission is accordingly granted.

4. Sri P. Ajay Babu, learned Assistant Government Pleader, submits that the Petitioner has not cooperated with the Investigating Officer in conducting the investigation, that he has given evasive replies, and at times remained silent.

5. Be that as it may, the accused has the right to remain silent. The Investigating Officer is not expected to secure cooperation from the accused in the manner of a devotee giving confession before a priest in church.

6. However, the Petitioner is also duty-bound to cooperate with the Investigating Officer for effective investigation and to enable filing of appropriate proceedings before the learned Trial Court. The provisions of 'the BNSS'/'the Cr.P.C.,' empowers the Investigating Officer to take appropriate measures against an accused who misuses the notice or the leverage given

under Section 35(3) of 'the BNSS'. Therefore, both the Petitioner and the Investigating Officer must work in tandem to ensure timely completion of the investigation.

7. Accordingly, the Writ Petition is disposed of with a direction that the Petitioner shall cooperate with the Investigating Officer, and the Investigating Officer shall complete the investigation and file appropriate proceedings before the learned Jurisdictional Magistrate in accordance with law. A schedule shall be drawn up by the Investigating Officer, in consultation with the Petitioner, to ensure completion of the investigation within a reasonable time.

8. Mr.G.L.Nageswara Rao, learned counsel for the Petitioner, submits that the Petitioner may be permitted to appear before the Investigating Officer along with a legal aid counsel. The request for permitting the Petitioner to be accompanied by a legal aid counsel is appealing, sound, and convincing. The permission is accordingly granted. No order as to costs.

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

DR. Y. LAKSHMANA RAO, J

Date: 06.07.2026
PRA

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

WRIT PETITION NO: 17890 of 2026

Date: 06.07.2026
PRA