



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

[3521]

FRIDAY, THE 31st DAY OF JULY 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION Nos: 3423 & 3409 of 2026

Crl.P.No.3423 of 2026

Between:

- 1.DEVINENI AVINASH, S/O RAJASEKHAR NEHRU, AGED ABOUT 37 YEARS,OCC POLITICAL SERVICE,R/O 48-4-16, ASHOK GARDEN, GUNADALA,VIJAYAWADA URBAN, KRISHNA DISTRICT. 520004

...PETITIONER/ACCUSED

AND

- 1.THE STATE OF ANDHRA PRADESH, THROUGH STATION HOUSE OFFICER,NANDIGAMA POLICE STATION, NTR DISTRICT REP.BY ITS PUBLIC PROSECUTOR,HIGH COURT OF ANDHRA PRADESH AT AMARAVATI.
- 2.LANKAPALLI RAVI KUMAR, S/O PRASAD RAO, AGED ABOUT 62 YEARS,OCC POLICE OFFICER, NANDIGAMA POLICE STATION,R/O NANDIGAMA, NTR DISTRICT. 521185

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

- 1.VELADI SAI SRI HARSHA

Counsel for the Respondent/complainant(S):

- 1.PUBLIC PROSECUTOR

Crl.P.No.3409 of 2026

Between:

- 1.MONDITOKA JAGAN MOHANA RAO, S/O KRISHNA, AGED ABOUT 60 YEARS,OCC EX- MEMBER OF LEGISLATIVE ASSEMBLY EX-

MLA,R/O. 8-29D, NEAR GEETHA MANDIR,NANDIGAMA, KRISHNA DISTRICT, 521185

- 2.MONDITOKA ARUNA KUMAR, S/O. KRISHNA, AGED ABOUT 50 YEARS,OCC MEMBER OF LEGISLATIVE COUNCIL MLC,R/O. PLOT NO. 403-1, VAISHNAVI RESIDENCY,CM ROAD, RAITHUPETA, KRISHNA DISTRICT, 521185

...PETITIONER/ACCUSED(S)

AND

- 1.THE STATE OF ANDHRA PRADESH, THROUGH STATION HOUSE OFFICER,NANDIGAMA POLICE STATION, NTR DISTRICT REP.BY ITS PUBLIC PROSECUTOR,HIGH COURT OF ANDHRA PRADESH AT AMARAVATI.
- 2.LANKAPALLI RAVI KUMAR, S/O PRASAD RAO, AGED ABOUT 62 YEARS,OCC POLICE OFFICER, NANDIGAMA POLICE STATION,R/O NANDIGAMA, NTR DISTRICT. 521185

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

- 1.VELADI SAI SRI HARSHA

Counsel for the Respondent/complainant(S):

- 1.PUBLIC PROSECUTOR

The Court made the following:

COMMON ORDER:

Criminal Petitions have been filed under Section 528 Bharatiya Nagarik Suraksha Sanhita Act, 2023 (for brevity the 'BNSS') by the Petitioners/Accused Nos.1, 2 & 3 seeking to quash the proceedings against them in F.I.R.No.449 of 2025 on the file of Nandigama Police Station, NTR District.

2. The case of the prosecution is that on 09.09.2025 at about 10:30 a.m., at C.M.Road, Nandigama Town, the accused persons, being leaders and

workers of YSRCP, unlawfully assembled and conducted a rally/dharna under the banner “Annadata Poru” without permission, despite the enforcement of Section 30 of the Police Act, 1861. When warned by Assistant Sub-Inspector Lankapalli Ravikumar, they ignored lawful instructions, forcibly pushed aside police personnel, obstructed them in discharge of their official duties, and manhandled the complainant in uniform, thereby disturbing public peace and order. The prosecution alleges that the accused committed offences of unlawful assembly, rioting, assault on a public servant, and obstruction of lawful duty, warranting penal action.

3. Sri Veladi Sai Sri Harsha, learned Counsel for the Petitioners/Accused Nos.1, 2 & 3 submits that the very substratum of the prosecution case is inherently infirm and unsustainable in law. The allegations contained in the FIR are vague, omnibus and bereft of any specific overt act attributed to the Petitioners. The mere participation in a political rally, without any allegation of assault or criminal force against a public servant, cannot *ipso facto* attract the rigours of Sections 132, 195(1), 189(3), 223, 285, 292 and 293 read with Section 190 of the Bharatiya Nyaya Sanhita, 2023 (for brevity ‘the BNS.,’). The invocation of these penal provisions, in the absence of foundational facts, is manifestly arbitrary and constitutes an abuse of process.

4. It is further contended that even assuming *arguendo* that the allegations are taken at face value, there is no averment that the Petitioners assaulted or obstructed the de-facto complainant in discharge of his lawful duties. The gravamen of the complaint is only that the rally continued despite the warning

of the police. Such conduct, at best, amounts to passive disobedience and does not satisfy the essential ingredients of Section 132 of 'the BNS.,' which requires active use of criminal force with intent to deter a public servant. Likewise, Section 195(1) of 'the BNS.,' is not attracted in the absence of any act of obstruction or assault upon the police personnel.

5. Learned Counsel for the Petitioners/Accused Nos.1, 2 & 3 would further submit that the invocation of Section 189(3) of 'the BNS.,' is wholly misconceived. To attract the said provision, there must be a common object to commit mischief, criminal trespass or to resist execution of law. The mere act of rallying, without any unlawful object, cannot be construed as an offence under this section. The complaint is conspicuously silent on any such common object, thereby rendering the charge legally untenable. Similarly, Section 285 of 'the BNS.,' can only be invoked upon a grievance from the public alleging obstruction of a public way. In the present case, no member of the public has lodged any complaint, and the allegation is confined to the police version alone.

6. Learned Counsel for the Petitioners also submits that cognizance of offences under Section 223 of 'the BNS.,' is expressly barred under Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS.,') unless there is a written complaint by the concerned public servant or an authorised superior. In the instant case, no such complaint has been filed before the competent Court. Thus, even if a charge sheet is filed, the learned Magistrate would be precluded from taking cognizance, and continuation of

proceedings against the Petitioners would amount to a palpable abuse of process of law. Thus, the continuation of proceedings against the Petitioners is malicious, instituted with *mala fides*, and amounts to sheer abuse of the process of Court, and it is urged to quash the FIR and all consequential proceedings.

7. Heard the learned Counsel for the Petitioners and the learned Assistant Public Prosecutor.

8. Thoughtful consideration is bestowed on the arguments advanced by the learned Counsel for both sides. I have perused the entire record.

9. In the light of the case of the prosecution and the contentions of the learned Counsel for both the sides, now the point for consideration is:

“Whether the proceedings in F.I.R.No.449 of 2025 on the file of Nandigama Police Station, NTR District is liable to be quashed in exercise of the inherent powers of the High Court under Section 482 of ‘the Cr.P.C.,’/Section 528 of ‘the BNSS’?”

10. In this regard it is apposite to refer to the judgment of the Hon’ble Apex Court in **C. Muniappan v. State of T.N.**,¹ wherein at paragraph Nos.28 & 29, it is held as under:

“28. Section 195(1)(a)(i) CrPC bars the court from taking cognizance of any offence punishable under Section 188 IPC or abetment or attempt to commit the same, unless, there is a written complaint by the public servant concerned for contempt of his lawful order. The object of this provision is to provide for a particular procedure in a case of contempt of the lawful authority of the public servant. The court lacks competence to take cognizance in certain types of offences enumerated therein. The legislative intent behind such a provision has been that an individual should not face criminal prosecution instituted upon insufficient grounds by persons actuated by malice, ill will or frivolity of disposition and to save the time of the criminal courts being wasted by endless prosecutions. This provision has been carved out as an exception to the general rule contained under Section 190 CrPC that any person can set

¹ (2010) 9 SCC 567

the law in motion by making a complaint, as it prohibits the court from taking cognizance of certain offences until and unless a complaint has been made by some particular authority or person. Other provisions in CrPC like Sections 196 and 198 do not lay down any rule of procedure, rather, they only create a bar that unless some requirements are complied with, the court shall not take cognizance of an offence described in those sections. (Vide Govind Mehta v. State of Bihar [(1971) 3 SCC 329 : 1971 SCC (Cri) 608 : AIR 1971 SC 1708] , Patel Laljibhai Somabhai v. State of Gujarat [(1971) 2 SCC 376 : 1971 SCC (Cri) 548 : AIR 1971 SC 1935] , Surjit Singh v. Balbir Singh [(1996) 3 SCC 533 : 1996 SCC (Cri) 521] , State of Punjab v. Raj Singh [(1998) 2 SCC 391 : 1998 SCC (Cri) 642] , K. Vengadachalam v. K.C. Palanisamy [(2005) 7 SCC 352 : 2005 SCC (Cri) 1673] and Iqbal Singh Marwah v. Meenakshi Marwah [(2005) 4 SCC 370 : 2005 SCC (Cri) 1101] .)

29. The test of whether there is evasion or non-compliance with Section 195 CrPC or not, is whether the facts disclose primarily and essentially an offence for which a complaint of the court or of a public servant is required. In Basir-ul-Haq v. State of W.B. [(1953) 1 SCC 637 : AIR 1953 SC 293 : 1953 Cri LJ 1232] and Durgacharan Naik v. State of Orissa [AIR 1966 SC 1775 : 1966 Cri LJ 1491] , this Court held that the provisions of this section cannot be evaded by describing the offence as one being punishable under some other sections of IPC, though in truth and substance, the offence falls in a category mentioned in Section 195 CrPC. Thus, cognizance of such an offence cannot be taken by misdescribing it or by putting a wrong label on it.”

11. The Hon’ble Apex Court in **Govind Mehta v. State of Bihar**², at paragraph No.12 it is held as under:

“12. According to Mr Jyoti Narayan, the point of time at which the legality of the cognizance taken by the Magistrate to be adjudged, is the time when cognizance is actually taken under Section 190 of the Code and applying that test in the present case, it will be seen that there has been a breach of Section 195(1)(b) and (c) and Section 476 of the Code. The proposition that the point of time at which the legality of the cognizance taken is to be adjudged is the time when cognizance is actually taken is laid down by this Court in M.L. Sethi v. R.P. Kapur [AIR 1967 SC 528 : (1967) 1 SCR 520 : 1967 Cri LJ 528] . The Magistrate has normally got jurisdiction to take cognizance under Section 190 of the Code in the circumstances enumerated therein. Section 195 is in fact a limitation on the unfettered powers of a Magistrate to take cognizance under Section 190 of the Code. Therefore, at the stage when the Magistrate is taking cognizance under Section 190, he must examine the facts of the complaint before him and determine whether his power of taking cognizance under Section 190 has or has not been taken away by any of the clauses (a) to (c) of Section 195(1). Therefore, it is needless to state that if there is a non-compliance with the provisions of Section 195, the Magistrate will have no jurisdiction to take cognizance of any of the offences enumerated therein.”

² (1971) 3 SCC 329

12. The Hon'ble Apex Court in **Surjit Singh v. Balbir Singh**³, at paragraph No.6 it is held as under:

“6. The object thereby is to protect persons from needless harassment by prosecution for private vendetta; to preserve purity of the judicial process and unsullied administration of justice; to prevent the parties of the temptation to pre-empt the proceedings pending in a court and to pressurise and desist parties from proceeding with the case. Equally when the act complained of relates to an offence, i.e., contempt of lawful authority of public servant, or against public justice or for offences relating to documents produced or given in evidence, public justice demands absolute bar of private prosecution and that power be given to the court to lay complaint under Section 340 of the Code as per the procedure prescribed therein. In Patel Laljibhai case [(1971) 2 SCC 376 : 1971 SCC (Cri) 548 : AIR 1971 SC 1935] the main controversy was as to when the accused had become a party to the proceedings. However, after the Code came into force in 1974 replacing the earlier Code of 1898 it was omitted and so it is no longer of any relevance. It is seen that the appellants therein had filed a civil suit on the basis of a cheque dated 22-11-1963 and the civil suit had come to be dismissed on 30-1-1965. Thereafter, the private complaint was filed on 16-11-1965. In the light of those facts it was held that the respondent was a party to the proceedings in the suit and that, therefore, the private complaint was not maintainable.”

13. The Hon'ble Apex Court in **State of Punjab v. Raj Singh**⁴, at paragraph No.2 held as under:

“2. We are unable to sustain the impugned order of the High Court quashing the FIR lodged against the respondents alleging commission of offences under Sections 419, 420, 467 and 468 IPC by them in course of the proceeding of a civil suit, on the ground that Section 195(1)(b)(ii) CrPC prohibited entertainment of and investigation into the same by the police. From a plain reading of Section 195 CrPC it is manifest that it comes into operation at the stage when the court intends to take cognizance of an offence under Section 190(1) CrPC; and it has nothing to do with the statutory power of the police to investigate into an FIR which discloses a cognizable offence, in accordance with Chapter XII of the Code even if the offence is alleged to have been committed in, or in relation to, any proceeding in court. In other words, the statutory power of the police to investigate under the Code is not in any way controlled or circumscribed by Section 195 CrPC. It is of course true that upon the charge-sheet (challan), if any, filed on completion of the investigation into such an offence the court would not be competent to take cognizance thereof in view of the embargo of Section 195(1)(b) CrPC, but nothing therein deters the court from filing a complaint for the offence on the basis of the FIR (filed by the aggrieved private party) and the materials collected during investigation, provided it forms the requisite opinion and follows the procedure laid down in Section 340

³ (1996) 3 SCC 533

⁴ (1998) 2 SCC 391

CrPC. The judgment of this Court in Gopalakrishna Menon v. D. Raja Reddy [(1983) 4 SCC 240 : 1983 SCC (Cri) 822 : AIR 1983 SC 1053] on which the High Court relied, has no manner of application to the facts of the instant case for there cognizance was taken on a private complaint even though the offence of forgery was committed in respect of a money receipt produced in the civil court and hence it was held that the court could not take cognizance on such a complaint in view of Section 195 CrPC.”

14. The Hon’ble Apex Court in **K. Vengadachalam v. K.C. Palanisamy**⁵, at paragraph Nos.3 & 4 held as under:

“3. By the impugned order, the High Court of Madras quashed the prosecution of the respondents, which was launched under Sections 467, 468, 471, 472 and 477-A read with Section 34 of the Penal Code (for short “IPC”) on the ground that the complaint was barred under Section 195(1)(b)(ii) of the Code of Criminal Procedure, 1973 (for short “CrPC”). Undisputedly, the forgery is said to have been committed before the document was filed. Earlier, there was diverse opinion of this Court as to whether protection of Section 195(1)(b)(ii) CrPC was available in relation to forgery committed prior to the filing of document or after its filing. A Constitution Bench decision of this Court in the case of Iqbal Singh Marwah v. Meenakshi Marwah [(2005) 4 SCC 370 : 2005 SCC (Cri) 1101] has categorically laid down in para 33 of the judgment that protection engrafted under Section 195(1)(b)(ii) CrPC would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it had been produced or given in evidence in a proceeding in any court i.e. during the time when the document was in custodia legis. This being the position, in our view, the High Court was not justified in quashing prosecution of the respondents on the ground that provisions of Section 195(1)(b)(ii) CrPC were applicable.

4. Mr K.T.S. Tulsi, learned Senior Counsel appearing on behalf of the respondents submitted that the respondents are entitled to claim protection under Section 195(1)(a) CrPC, which enumerates the offences punishable under Sections 172 to 188 IPC. It has been pointed out that according to the petition of complainant, the accused persons had falsely filed a complaint before the Deputy Registrar, Chits, who dismissed the matter finally. The said complaint was not dismissed by the Deputy Registrar on merits, but without any adjudication, inasmuch as there was no finding that the complainant had lodged a false complaint before the Deputy Registrar. The present complaint does not relate to falsity or otherwise of the complaint before the Deputy Registrar; rather according to the prosecution case, the accused persons are said to have forged the document. This being the position, in our view, the provisions of Section 195(1)(a) CrPC, shall have no application to the case in hand. For the foregoing reasons, we are of the view that the High Court was not justified in quashing prosecution of the respondents.”

⁵ (2005) 7 SCC 352

15. The Hon'ble Apex Court in **Basir-UI-Huq v. State of W.B.**,⁶ at paragraph No.12 held as under:

"12. Section 195 CrPC, on which the question raised is grounded, provides, inter alia, that no court shall take cognizance of an offence punishable under Sections 172 to 188IPC, except on the complaint in writing of the public servant concerned, or some other public servant to whom he is subordinate. The statute thus requires that without a complaint in writing of the public servant concerned no prosecution for an offence under Section 182 can be taken cognizance of. It does not further provide that if in the course of the commission of that offence other distinct offences are committed, the Magistrate is debarred from taking cognizance in respect of those offences as well. The allegations made in a complaint may have a double aspect, that is, on the one hand these may constitute an offence against the authority of the public servant or public justice, and on the other hand, they may also constitute the offence of defamation or some other distinct offence. The section does not per se bar the cognizance by the Magistrate of that offence, even if no action is taken by the public servant to whom the false report has been made. It was however argued that if on the same facts an offence of which no cognizance can be taken under the provisions of Section 195 is disclosed and the same facts disclose another offence as well which is outside the purview of the section and prosecution for that other offence is taken cognizance of without the requirements of Section 195 having been fulfilled, then the provisions of that section would become nugatory and if such a course was permitted those provisions will stand defeated. It was further said that it is not permissible for the prosecution to ignore the provisions of this section by describing the offence as being punishable under some other section of the Penal Code."

16. The Hon'ble Apex Court in **State of U.P. v. Mata Bhikh**⁷, wherein at paragraph Nos.15 & 16 it is held as under:

"15. On a scrutiny of Section 195(1)(a), we are of the view that a successor in office of a public servant concerned will also fall within the ambit of the expression 'public servant concerned'. Any other view contrary to it will only create difficulties in certain situations. For example, in a case where a public servant concerned promulgates a preliminary order under Section 133, 145 or 146 of the Code of Criminal Procedure and is transferred or retires or ceases to be in office on any account before a final order is passed, would it mean that the successor who is under the law to continue the same proceeding has no right to file a complaint if the preliminary order is disobeyed. The answer would be that the successor in office can file a complaint. In every such situation, one cannot expect the superior officer to whom the public servant is administratively subordinate to file a complaint against the wrongdoers disobeying either the preliminary order or the final order promulgated by the public servant concerned."

⁶ (1953) 1 SCC 637

⁷ (1994) 4 SCC 95

16. Therefore, in the light of the dictum laid down in *Ajaib Singh* [AIR 1968 SC 1422 : 1969 Cri LJ 4 : 70 Pun LR 1131] we are of the view that the successor in office of the public servant gets into the same position of the public servant concerned and he is in law eligible to file a complaint against wrongdoers. To say in other words, the successor in office falls within the ambit of the expression 'public servant concerned'. The view taken by the High Court in the impugned judgment cannot be sustained and accordingly, the judgment of the High Court is set aside and the appeal is allowed."

17. The Hon'ble Apex Court in **State of Karnataka v. Hemareddy**⁸, at paragraph No.8 it is held as under:

"8. We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a court is necessary under Section 195(1)(b) of the Code of Criminal Procedure and an offence for which a complaint of a court is necessary under that sub-section, are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 195(1)(b) of the Code of Criminal Procedure should be upheld."

18. The Hon'ble Apex Court in **Ajaib Singh v. Joginder Singh**⁹, at paragraph No.5 it is held as under:

"5. The learned counsel next contends that the complaint could only be filed by the Magistrate before whom the original proceedings were taken. He says that according to Section 195(1)(b) CrPC a complaint in respect of Sections 193, 195 and 211 IPC, can only be made by the Court in which the proceedings out of which the offences arose took place. We see no force in this contention. Section 559 enables a successor-in-office of a Magistrate to file a complaint. The relevant portion of Section 559 reads as follows:

"559. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate."

This section was substituted for the original Section 559 by the Code of Criminal Procedure (Amendment) Act (18 of 1923). Since the amendment it has been held, and we think rightly, that a successor in office of a Magistrate can file a complaint under Section 476, CrPC, in respect of an offence under Section 195 IPC, committed before his predecessor. (See *Behram v. Beparor* [27 Cr LJ 776] *Bara Kanon Manjhi v. Gopi Manjhi* [AIR 1927 Pat 327] ; and *In re Subramaniam*

⁸ (1981) 2 SCC 185

⁹ 1968 SCC OnLine SC 253

Chettiar [AIR 1957 Mad 442] . This section applies to all Magistrates and there is no reason why the plain terms of the section should be cut down to limit it, as suggested by the learned counsel for the appellant, to Magistrates whose courts are permanent. It seems to us further clear that sub-section (2) has not the effect of limiting Section 559(1) Section 559(2) applies when there is a doubt as to who the successor is, and that doubt can be resolved in the manner laid down in sub-section (2). The sub-section does not mean, as contended by the learned counsel, that until a successor is determined under sub-section (2) there is no successor for the purposes of sub-section (1). If there is no doubt about who the successor is, then that person can exercise the powers under sub-section (1). We accordingly hold that the complaint was properly filed by Shri Joginder Singh "Karangarhia", Magistrate."

19. At this juncture, it is apposite to refer the judgment of the Hon'ble Apex Court in **Bandekar Bros. (P) Ltd. v. Prasad Vassudev Keni**¹⁰, wherein at para No.48, it is held as under:

*"48. Equally important to remember is that if in the course of the same transaction two separate offences are made out, for one of which Section 195 CrPC is not attracted, and it is not possible to split them up, the drill of Section 195(1)(b) CrPC must be followed. Thus, in *State of Karnataka v. Hemareddy* [*State of Karnataka v. Hemareddy*, (1981) 2 SCC 185 : 1981 SCC (Cri) 395] , this Court referred to a judgment of the Madras High Court (*V.V.L. Narasimhamurthy, In re [V.V.L. Narasimhamurthy v. State*, 1953 SCC OnLine Mad 236 : AIR 1955 Mad 237]) and approved its ratio as follows : (*Hemareddy case [State of Karnataka v. Hemareddy*, (1981) 2 SCC 185 : 1981 SCC (Cri) 395] , SCC pp. 190-91, paras 7-8)*

*"7. ... In the third case, Somasundaram, J., has observed : (*V.V.L. Narasimhamurthy case [V.V.L. Narasimhamurthy v. State*, 1953 SCC OnLine Mad 236 : AIR 1955 Mad 237] , SCC OnLine Mad)*

'The main point on which Mr Jayarama Ayyar appearing for the petitioner seeks to quash this committal is that on the facts an offence under Section 193 IPC is disclosed for which the court cannot take cognizance without a complaint by the court as provided under Section 195(1)(b) of the Criminal Procedure Code. The first question which arises for consideration is whether on the facts mentioned in the complaint, an offence under Section 193 IPC is revealed. Section 193 reads as follows:

***"193. Punishment for false evidence.**—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

"Fabrication of false evidence" is defined in Section 192. The relevant portion of it is:

"Whoever causes any circumstance to exist intending that such circumstance may appear in evidence in a judicial proceeding and that

¹⁰ (2020) 20 SCC 1

such circumstance may cause any person who in such proceeding is to form an opinion upon the evidence to entertain an erroneous opinion touching any point material to the result of such proceeding is said "to fabricate false evidence"."

The effect of the allegations in the complaint preferred by the complainant is that the petitioner has caused this will to come into existence intending that such will may cause the Judge before whom the suit is filed to form an opinion that the will is a genuine one and, therefore, his minor daughter is entitled to the property. The allegation, therefore, in the complaint will undoubtedly fall under Section 192 IPC. It will, therefore, amount to an offence under Section 193 IPC i.e. fabricating false evidence for the purpose of being used in the judicial proceeding. There is no doubt that the facts disclosed will also amount to an offence under Sections 467 and 471 IPC. For prosecuting this petitioner for an offence under Sections 467 and 471, a complaint by the court may not be necessary as under Section 195(1)(b) CrPC a complaint may be made only when it is committed by a party to any proceeding in any court.

Mr Jayarama Ayyar does not give up his contention that the petitioner, though he appears only a guardian of the minor girl, is still a party to the proceeding. But it is unnecessary to go into the question at the present moment and I reserve my opinion on the question whether the guardian can be a party to a proceeding or not, as this case can be disposed of on the other point viz. that when the allegations amount to an offence under Section 193 IPC, a complaint of court is necessary under Section 195(1)(a) CrPC and this cannot be evaded by prosecuting the accused for an offence for which a complaint of court is not necessary.'

8. We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a court is necessary under Section 195(1)(b) of the Code of Criminal Procedure and an offence for which a complaint of a court is necessary under that sub-section, are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 195(1)(b) of the Code of Criminal Procedure should be upheld.'"

20. A learned Single Judge of this Court in **Kantamaneni Ravishankar v.**

State of A.P.,¹¹ at para No.86 it is held as under:

"86. Therefore, to register a crime against a person, who disobeyed the ordinance, there must be a complaint from public servant about the disobedience of ordinance. Hence, the very registration of crime for the offence punishable under Section 188 of I.P.C. is contrary to the settled law laid down by the Apex Court and other High Courts (referred supra) and the police officer is incompetent to register a crime for the offence punishable under Section 188 of I.P.C. on the complaint of any other person other than a public servant and any other person, who is authorized by public servant. Consequently, registration of crime against the petitioner is vitiated by irregularity."

¹¹ 2020 SCC OnLine AP 726

21. This Court, in **Kollu Ravindra v. State of A.P.**¹² has categorically held that a complaint invoking offences under Sections 172 to 188 of ‘the I.P.C.,’ must emanate from a “public servant” as envisaged under Sections 190 and 200 of ‘the Cr.P.C.’ In the absence of such a statutory complaint, the learned Magistrate is divested of the competence to take cognizance of the alleged offence. The bar contained in Section 195 of ‘the Cr.P.C.,’ therefore, operates as a clear embargo on the assumption of cognizance based merely on a police report.

22. This Court, further also held in **Kanakamedala Ravindra Kumar v. State of A.P.**¹³ that when the allegations arise out of a single, indivisible transaction giving rise to multiple offences, one falling squarely within the ambit of Section 195 of ‘the Cr.P.C.,’ and another ostensibly outside its sweep, such offences, being inextricably interwoven, cannot be artificially segregated to bypass the statutory embargo. The Court has categorically held that mere deletion of Section 188 of ‘the I.P.C.,’ from the charge sheet does not efface the bar, for the factual substratum of the alleged act continues to be integrally connected with the disobedience of a promulgated order, thereby mandating a complaint by the competent public servant as required under Section 195(1)(a) of ‘the Cr.P.C.’

23. A careful perusal of the contents of the FIR would disclose that the accusation against the Petitioners is primarily that they participated in a political rally and dharna under the banner “Annadata Poru” without obtaining

¹² 2025 SCC OnLine AP 3870

¹³ Criminal Petition No: 987/2020

prior permission from the concerned authorities and continued the protest despite warnings issued by the police. Except making a general allegation that the accused persons pushed aside police personnel and obstructed them in discharge of their duties, no specific overt act has been attributed to any of the Petitioners. The FIR does not indicate which of the Petitioners committed what act, nor does it disclose the nature of force allegedly used by them. Such omnibus allegations, without particularization, cannot form the sole basis for subjecting the Petitioners to criminal prosecution.

24. Insofar as the offence punishable under Section 132 of 'the BNS.,' is concerned, the provision contemplates assault or use of criminal force against a public servant with the intention of deterring him from discharge of his lawful duty. The essential ingredients, therefore, are the use of assault or criminal force and the requisite intention to prevent the public servant from performing his duties. In the case on hand, the allegations are conspicuously silent as to any specific act of assault committed by the Petitioners against the de-facto complainant or any other police official. Mere participation in a protest or refusal to disperse upon being warned cannot, by itself, amount to assault or criminal force within the meaning of the provision. In the absence of foundational facts disclosing the essential ingredients of the offence, invocation of Section 132 of 'the BNS.,' appears wholly unsustainable.

25. The ingredients of Section 195(1) of 'the BNS.,' are not *prima facie* attracted. To constitute the said offence, there must be a deliberate obstruction of a public servant while lawfully discharging official duties. The

FIR does not specify the nature of obstruction allegedly caused by the Petitioners. No material is placed to show that any official act was prevented or interrupted on account of any specific conduct of the Petitioners. The allegations remain broad, vague and collective in nature. Where the complaint lacks a clear assertion of acts constituting obstruction, prosecution for the said offence cannot be permitted to continue.

26. Coming to Section 189(3) of 'the BNS.,' the provision presupposes the existence of an unlawful assembly sharing a common object of the nature contemplated therein. The complaint does not disclose that the Petitioners had assembled with an intention to commit any offence, to enforce any unlawful demand, to commit mischief, criminal trespass, or to resist execution of law by use of force. The recital in the FIR reveals only that the Petitioners and others participated in a protest programme concerning public issues. A political demonstration, by itself, does not become an unlawful assembly unless the common object falls within the parameters prescribed by law. In the absence of any allegation demonstrating such unlawful common object, the ingredients of Section 189(3) of 'the BNS.,' are not satisfied.

27. The offence under Section 223 of 'the BNS.,' also does not appear to be maintainable in the facts of the present case. More importantly, cognizance for such offence is regulated by the procedure contemplated under Section 215 of 'the BNSS.,' which mandates a complaint in writing by the concerned public servant or by an authority competent in law. The record placed before this Court does not disclose compliance with the said statutory requirement. When

the law itself prescribes a special mode for setting the criminal law in motion, prosecution contrary to such mandate cannot be permitted to continue.

28. The invocation of Section 285 of 'the BNS.,' is not supported by the allegations contained in the FIR. The provision contemplates obstruction or danger caused in a public way so as to affect the public at large. Except a general statement that the rally was conducted on a public road, there is no specific allegation that any member of the public was prevented from using the road or that any complaint was lodged by persons allegedly inconvenienced by the protest. The FIR is entirely based upon the version of the police officials. Absence of any material demonstrating actual obstruction or public inconvenience renders the application of the said provision doubtful.

29. The offences under Sections 292 and 293 of 'the BNS.,' which are also invoked in the FIR, are likewise unsupported by any factual foundation. The complaint does not disclose any act attributable to the Petitioners which would satisfy the ingredients of the said provisions. The mere mention of penal sections without corresponding factual assertions cannot sustain a criminal prosecution. It is a settled principle that criminal law cannot be set in motion on the basis of vague and generalized allegations devoid of the essential elements constituting the alleged offences.

30. Significantly, the entire prosecution case proceeds on the footing that the Petitioners participated in a political rally without obtaining prior permission and continued their protest despite police warnings. Such allegations, even if taken at their face value and accepted in entirety, do not disclose the

commission of the offences alleged against the Petitioners. The material placed before this Court fails to establish the necessary nexus between the acts alleged and the statutory ingredients of the offences invoked. Continuation of investigation and further proceedings on such deficient allegations would amount to permitting a roving and fishing enquiry.

31. This Court is of the considered opinion that the FIR does not disclose the commission of any cognizable offence by the Petitioners and that the allegations are inherently vague, omnibus and lacking in specific particulars. Allowing the prosecution to continue in such circumstances would result in unnecessary harassment to the Petitioners and would constitute an abuse of the process of law.

32. Further, insofar as the offence punishable under Section 223 of 'the BNS.,' is concerned, cognizance thereof is governed by the restrictions contained in Section 215 of 'the BNSS.' Section 215 of 'the BNSS.,' which substantially corresponds to Section 195 of 'the Cr.P.C.,' places a statutory embargo on the Court from taking cognizance of specified offences against public justice except upon a complaint in writing made by the concerned public servant or by an officer administratively superior to him. The object of the provision is to prevent frivolous prosecutions and to ensure that prosecution for such offences is initiated only by the competent authority.

33. In the present case, the record does not disclose that any complaint, as contemplated under Section 215 of 'the BNSS.,' read with the provisions relating to complaints before a Magistrate, was filed by the concerned public

servant. The prosecution is founded solely on the registration of the FIR and the police report. In the absence of a written complaint by the public servant concerned, the statutory requirement prescribed under Section 215 of 'the BNSS.,' remains unfulfilled. Therefore, the bar contained therein squarely operates against the taking of cognizance for the offence under Section 223 of 'the BNS.'

34. It is well settled that where the statute expressly prescribes a particular mode for initiation of criminal proceedings, the same has to be strictly complied with. A police report cannot be treated as a substitute for the complaint contemplated under Section 215 of 'the BNSS.' Consequently, even assuming that the allegations in the FIR are accepted on their face value, the learned Magistrate would not be competent to take cognizance of the offence under Section 223 of 'the BNS.,' in the absence of the requisite complaint by the concerned public servant.

35. Therefore, viewed from any angle, the prosecution for the offence under Section 223 of 'the BNS.,' is legally unsustainable. Continuation of proceedings despite the statutory bar engrafted under Section 215 of 'the BNSS.,' would amount to an abuse of the process of law.

36. Therefore, the proceedings against the Petitioners/Accused Nos.1, 2 & 3 in F.I.R.No.449 of 2025 on the file of Nandigama Police Station, NTR District, are liable to be interfered and quashed.

37. In the result, the Criminal Petitions are allowed. Accordingly, the proceedings in F.I.R.No.449 of 2025 on the file of Nandigama Police Station, NTR District, are quashed.

DR. Y. LAKSHMANA RAO, J

Date: 31.07.2026
VTS