

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

W.P. No.18425 of 2026

Between:

1.YARRAGORLA ITUKANALU, S/O LATE Y. G
NARAYANAPPA, AGED ABOUT 65 YEARS, R/O
AKUTHOTAPALLI VILLAGE, ANANTAPURAM, RURAL
MANDAL, ANANTAPUR DISTRICT- 515001

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS
PRINCIPAL SECRETARY TO GOVERNMENT, HOME
(POLICE) DEPARTMENT, SECRETARIAT,
VELAGAPUDI, AMARAVATI, ANDHRA PRADESH-
522238

2.THE DIRECTOR GENERAL OF POLICE, ANDHRA
PRADESH, MANGALAGIRI, ANDHRA PRADESH-
522503

3.THE SUPERINTENDENT OF POLICE, ANANTAPURAM
DISTRICT, ANANTAPURAM ANDHRA PRADESH-
515001

4.THE CIRCLE INSPECTOR OF POLICE / STATION
HOUSE OFFICER, ITUKALAPALLI POLICE STATION,
SK UNIVERSITY, ANANTAPURAM DISTRICT -515003

5.KOMMNENENI SRINIVASA NAIDU, AGED ABOUT 51
YEARS, S/O KOMMNENENI VENKABHAIRAM, R/O
DOOR NO. 28-3-323-1, SHARADA NAGAR, 2ND
CROSS, OPP. CHILDREN'S PARK, ANANTAPURAM -
515002

...RESPONDENT(S):

DATE OF JUDGMENT PRONOUNCED: 23.07.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

- | | |
|---|--------|
| 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 MAHESWARA RAO KUNCHEAM

*** HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

+ W.P. No.18425 of 2026

% 23.07.2026

YARRAGORLA ITUKANALU, S/O LATE Y. G NARAYANAPPA,
AGED ABOUT 65 YEARS, R/O AKUTHOTAPALLI VILLAGE,
ANANTAPURAM, RURAL MANDAL, ANANTAPUR DISTRICT-
515001

.. Petitioner

Vs.

\$ THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY TO GOVERNMENT, HOME (POLICE)
DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATI,
ANDHRA PRADESH-522238 AND FOUR OTHERS.

.. Respondents

! Counsel for petitioner : Sri RAMANA G

^ Counsel for respondents : GP FOR HOME

? CASES REFERRED:

1. 1964 SCC OnLine SC 13
2. (2016) 6 SCC 277
3. (2020) 16 Supreme Court Cases 728
4. 2026 SCC OnLine SC 798

APHC010339672026 IN THE HIGH COURT OF ANDHRA



**PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3504]

THURSDAY, THE 23rd DAY OF JULY 2026

PRESENT

**THE HONOURABLE SRI JUSTICE MAHESWARA RAO
KUNCHEAM**

WRIT PETITION NO: 18425/2026

Between:

1. YARRAGORLA ITUKANALU, S/O LATE Y. G
NARAYANAPPA, AGED ABOUT 65 YEARS, R/O
AKUTHOTAPALLI VILLAGE, ANANTAPURAM, RURAL
MANDAL, ANANTAPUR DISTRICT- 515001

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS
PRINCIPAL SECRETARY TO GOVERNMENT, HOME
(POLICE) DEPARTMENT, SECRETARIAT, VELAGAPUDI,
AMARAVATI, ANDHRA PRADESH-522238
2. THE DIRECTOR GENERAL OF POLICE, ANDHRA
PRADESH, MANGALAGIRI, ANDHRA PRADESH-522503
3. THE SUPERINTENDENT OF POLICE, ANANTAPURAM
DISTRICT, ANANTAPURAM ANDHRA PRADESH-515001
4. THE CIRCLE INSPECTOR OF POLICE / STATION HOUSE
OFFICER, ITUKALAPALLI POLICE STATION, SK
UNIVERSITY, ANANTAPURAM DISTRICT -515003
5. KOMMNENENI SRINIVASA NAIDU, AGED ABOUT 51
YEARS, S/O KOMMNENENI VENKABHAIRAM, R/O DOOR

NO. 28-3-323-1, SHARADA NAGAR, 2ND CROSS, 0PP.
CHILDREN'S PARK, ANANTAPURAM - 515002

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction, more particularly one in the nature of Mandamus declaring the inaction of Respondents 3 and 4 not registering a First Information Report pursuant to the Petitioners representation dated 08-06-2026, fraudulent registration done by the Respondent no. 5, as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently direct Respondents 3 and 4 to forthwith register a First information Report on the basis of the Petitioner's representation dated 08-06-2026 against Respondent No.5 and all other persons involved, including the officials of the Sub-Registrar Office, Anantapuram Rural, and to conduct a fair, impartial and time-bound investigation into the matter in accordance with law and to pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents no 3 and 4 to register the complaint and investigate the petitioner's representation/complaint dated: 08-06-2026 pending disposal of the above writ petition pending disposal of the above writ petition and to pass

Counsel for the Petitioner:

1. RAMANA G

Counsel for the Respondent(S):

1. GP FOR HOME

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**WRIT PETITION No: 18425 of 2026****ORDER:**

Instant Writ Petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following relief:

“to issue a Writ of Mandamus or any other appropriate writ, order or direction, more particularly one in the nature of Mandamus declaring the inaction of Respondents 3 and 4 not registering a First Information Report pursuant to the Petitioners representation dated 08-06-2026, fraudulent registration done by the Respondent no. 5, as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently direct Respondents 3 and 4 to forthwith register a First information Report on the basis of the Petitioner's representation dated 08-06-2026 against Respondent No.5 and all other persons involved, including the officials of the Sub-Registrar Office, Anantapuram Rural, and to conduct a fair, impartial and time-bound investigation into the matter in accordance with law and to pass”.

2. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home appearing on behalf of Respondent Nos.1 to 4 and perused the material placed on record.

3. Conspectus of facts in the present Writ Petition is that, despite the petitioner's complaint to the police personnel, the respondent police are not acting upon the same by registering an FIR, thereby lodging criminal proceedings.

4. Learned Assistant Government Pleader for Home, basing on the written instructions dated 06.07.2026 of the 4th Respondent, submits that the preliminary enquiry of the police reveals that petitioner's complaint does not disclose commission of any cognizable offence. As such, Writ Petition itself is not maintainable.

5. Core issue projected in the *lis* is that despite lodging a complaint with the police, no criminal proceedings have been registered against the persons concerned.

6. In this juncture, it is appropriate to note the relevant provisions enunciated in the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") to perceive the overall picture. Relevant provisions of BNSS, are Sections 173 and 210 read with Section 223.

“Section 173 of BNSS, 2023:

Information in cognizable cases.—(1) Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic communication to an officer in charge of a police station, and if given—

- (i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;
- (ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

- (a) in the event that the person against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section

78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed

(c) the police officer shall get the statement of the person recorded by a Magistrate under clause (a) of sub-section (6) of section 183 as soon as possible.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.

(3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,—

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case.

- (4) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence failing which such aggrieved person may make an application to the Magistrate.

7. A perusal of above scheme detailed in Section 173 of BNSS empowers the police to investigate any **cognizable offence** without first obtaining permission from the Magistrate. Once information disclosing a cognizable offence is received, the police can register an FIR, collect evidence, examine witnesses, and carry out the investigation in accordance with law. The Magistrate also has the power to direct the police to investigate such offences. In simple terms, this provision gives the police the legal authority to independently investigate cognizable crimes while ensuring that the Magistrate retains supervisory control over the investigation process.

8. Now, we have to note what are the procedural aspects and powers envisaged in BNSS, 2023 in respect of cognizance of

offences by the learned Magistrate. In this context, it is relevant to note Section 210 of BNSS, 2023:

Section 210 of BNSS, 2023:

Cognizance of offences by Magistrate-(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence—

- (a) upon receiving a complaint of facts, including any complaint filed by a person authorised under any special law, which constitutes such offence;
- (b) upon a police report (submitted in any mode including electronic mode) of such facts;
- (c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed. (2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

9. The above purport of Section 210 of BNSS, 2023 indicates that when a Magistrate takes cognizance of an offence. It authorises First-Class Magistrates and Second-Class Magistrates, specially empowered by the Chief Judicial Magistrate, to take cognisance of and act upon a crime, and requires the investigating officer to submit a report to the Magistrate as soon as the investigation is complete. This report, commonly known as the

charge sheet (where sufficient evidence exists) or final report/closure report, must contain the facts of the case, the evidence collected, the names of the parties and witnesses, the offences made out, and the opinion of the investigating officer. The purpose of this provision is to ensure that the Magistrate receives the complete outcome of the investigation so that appropriate legal proceedings may be initiated in accordance with law.

10. **Section 210 of the Bharatiya Nagarik Suraksha Sanhita** governs the **examination of complainants** by a Magistrate. It corresponds to Section 200 of the Cr.P.C., but adds a crucial new rule: a Magistrate cannot take notice of a private complaint without first giving the accused a chance to be heard.

Section 223 of BNSS, 2023:

223. Examination of complainant.—(1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:

Provided further that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

- (a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or
- (b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212:

Provided also that if the Magistrate makes over the case to another Magistrate under section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

- (2) A Magistrate shall not take cognizance on a complaint against a public servant for any offence alleged to have been committed in course of the discharge of his official functions or duties unless—

- (a) such public servant is given an opportunity to make assertions as to the situation that led to the incident so alleged; and
- (b) a report containing facts and circumstances of the incident from the officer superior to such public servant is received.”

11. **Section 223 of the BNSS** provides that when a person files a private complaint before a Magistrate, the Magistrate shall examine complainant and any witnesses present on oath. This examination helps the Magistrate determine whether the complaint

discloses sufficient grounds to proceed with the case. If satisfied, the Magistrate may take further action in accordance with law.

12. As seen from above statutory realm discloses that BNSS, 2023 contemplates a structured sequential scheme to initiate criminal proceedings. The codified structured formula is provided in BNSS, 2023 so far as registration of the complaint and, if not, what are the other steps to follow.

13. As discussed above, the statutory realm encompasses certain procedures in BNSS, 2023. Without taking recourse under the above-said provisions, directly approaching the High Court by invoking extraordinary powers vested under Article 226 of the Constitution of India is to be viewed in light of the Constitutional Bench of Apex Court in ***Thansingh Nathmal vs. Superintendent of Taxes***¹, wherein it was held as under:

7. "The jurisdiction of the High Court under Article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be

¹ 1964 SCC OnLine SC 13

exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the court will not entertain a petition for a writ under article 226, where the petitioner has an alternative remedy, which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a Court of appeal against the decision of a court or Tribunal, to correct errors of fact, and does not by assuming jurisdiction under article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under article 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up”

14. It can be seen from the above dictum that a party, whoever approaches the High Court under Article 226 of the Constitution of India has a legal remedy available in another statutory scheme in a

structured formula; as such, exercising the extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India may not warrant grant of relief in usual course.

15. Now, coming to the central issue in the *lis*, despite the petitioner's complaint, the police are not registering an FIR; the aggrieved party directly initiating proceedings before the Hon'ble High Court under Article 226 of the Constitution of India or Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponding to Section 482 of the Code of Criminal Procedure, 1973.

16. In the light of the above, it is pertinent to note the judgment of Hon'ble Apex Court in ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage***², wherein it was held as under:

“2. This Court has held in Sakiri Vasu v. State of U.P [(2008) 2 SCC 409], that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3)

²(2016) 6 SCC 277

CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu case because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.

17. The above dictum was also reiterated by a Three-Judge Bench of the Hon'ble Supreme Court in ***M. Subramaniam and another vs. S. Janaki and another***³.

18. Very recently in ***Sujal Vishwas Attavar and another vs. State of Maharashtra and others***⁴, Apex Court, by taking note of all earlier judgments and also appreciating the provisions in BNSS, 2023, in its unequivocal words held as under:

“7. Keeping in view the above exposition of law, we find that the extraordinary jurisdiction under Article 226 of the Constitution of India ought not to have been invoked when alternative equally efficacious statutory remedies were available. If a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being conducted, then the remedy does not ordinarily lie in invoking the writ jurisdiction in the first instance, but in seeking recourse to the statutory framework, unless of course the urgency of the circumstances warrant otherwise.

8. The Bharatiya Nagarik Suraksha Sanhita 2023 (erstwhile Code of Criminal Procedure, 1973) provides a structured sequential mechanism for initiating criminal prosecution. The statutory framework contemplates that

³ (2020) 16 Supreme Court Cases 728

⁴ 2026 SCC OnLine SC 798

information relating to the commission of a cognizable offence is first placed before the officer-in-charge of the police station and an FIR is registered under Section 173(1) BNSS. In the event of refusal to register the FIR, recourse lies before the jurisdictional Superintendent of Police under Section 173(4) BNSS and, thereafter, before the Magistrate, under Section 175(3) BNSS.

9. xxxx.

10. xxxx.

11. The High Court is not bound to entertain a writ petition merely because a case of alleged inaction or negligence is made out against a statutory authority. Ordinarily, where a statute provides a complete and efficacious remedy, the same must be exhausted before invoking constitutional jurisdiction [See: Sakiri Vasu (supra) and Sudhir Bhaskarrao Tambe (supra)]. In the present facts, the complainant Company has not exhausted the sequential statutory remedies available under BNSS. There is, therefore, no foundation to invoke the extraordinary jurisdiction of the High Court for the reason that efficacious and efficient alternative remedies exists. Hence, at this stage, we find the instant writ petition to be premature, and, therefore, not fit to be entertained.”

19. Thus, in view of the statutory realm as well as the Judgments of Hon'ble Supreme Court of India, as detailed supra, the Writ Petition is disposed of in the following terms:

- i) Liberty is granted to the petitioner to approach the learned jurisdictional Magistrate by filing appropriate complaint under Section 175(3) and 210 read with 223 of BNSS, 2023.
- ii) This Court has not expressed any opinion on merits and whether or not the complaint discloses criminal offences.
- iii) Equally, it will be open to all the stakeholders to avail remedies in terms of the statutory realm.

There shall be no order as to costs.

As a sequel, interlocutory applications, if any, pending shall stand closed.

MAHESWARA RAO KUNCHEAM, J

Dated:23.07.2026

NOTE: LR copy to be marked.
Issue CC by 04.08.2026
B/o
Krk

HE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

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WRIT PETITION No.18425 OF 2026

Dt: 23.07.2026

NOTE: LR copy to be marked.

Issue CC by 04.08.2026

B/o

Krk