IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HON'BLE SRI JUSTICE B.R.MADHUSUDHAN RAO

CRIMINAL REVISION CASE No.651 of 2026

CNR.No. HBHC010430772026

DATE: 16th November 2026

Reserved on: 05.11.2026 **Pronounced on: 16.11.2026**

Uploaded on:

BETWEEN:

1.Paadi Koushik Reddy and another

... Petitioners-A1 and A2

And

The State of Telangana
represented by its Public Prosecutor,
High Court at Hyderabad.

... Respondent - Complainant

ORDER

1. This memorandum of Criminal Revision Case is filed under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) praying this Court to set aside the order dated 25.06.2026 passed in Crl.M.P.No.127 of 2026 in Crime No.30 of 2026 of P.S. Huzurabad by the learned Judicial Magistrate of First Class at Karimnagar.

2. Heard Sri T.V.Ramana Rao, learned counsel for the petitioners-A1 and A2 and Sri Palle Nageshwar Rao, learned Public Prosecutor appearing for the respondent – complainant.

3.1 Learned counsel for the petitioners submits that the impugned order is ex-facie illegal and arbitrary, in as much as the maintainability of the petition is seriously questionable since the investigation in the present case pertains to alleged offences such as unlawful assembly and other allied sections, which ordinarily fall within the domain of the local police station. The learned Magistrate did not consider the fact that the date of the alleged incident is 29.01.2026 and the letter of advice to the State Forensic Science Laboratory was sent on 20.03.2026. As per the said letter of advice at serial No.6, FSL was required to examine MO1 [pen drive] and MO2 [cell phone] to retrieve the video file wherein the petitioners-A1 and A2 made derogatory remarks. FSL was also required to extract the video files from MO1 and MO2 and provide the exact digital content in the said video recordings apart from ascertaining whether the video recordings are original or have been subject to any editing, alteration, or manipulation. It is only after the FSL determines the authenticity of the video files and that there is no editing, alteration, or manipulation, the issue of voice samples of the accused persons would become relevant. FSL report

on those aspects is not concluded as such the application filed by the prosecution seeking a direction to the petitioners-A1 and A2 to give their voice samples is absolutely irrelevant at this stage. The alleged incident is on 29.01.2026. Obviously the video footage would have to be recorded on the very same date. The letter of advice sent to FSL is on 20.03.2026, meaning thereby that the custody of MO2 and the mobile phone from which the video was downloaded to MO1 - pen drive is apparently with the police, there is a delay of 50 days which is not explained by the police. The chain of custody is compromised as such MO1 and MO2 have no evidentiary value at all. The verbatim transcripts have been transcribed and filed along with the counter in Criminal Petition No.5951 of 2026. The said verbatim transcripts apparently are after repeated analysis and examination of the alleged video filed, which also shows that the electronic evidence sought to be relied on by the prosecution is severely compromised, contaminated and does not hold any evidentiary value. Those aspects being crucial and critical for recording the satisfaction by the learned Magistrate as mandated under Section 349 BNSS have been overruled and the impugned order has been passed in a routine manner. There is no satisfaction recorded by examining the relevant and crucial facts before directing the petitioners-A1 and A2 to give their voice samples. Prosecution must first establish prima facie existence of

the original electronic record, integrity of recording, lawful seizure, preservation of metadata and compliance with provisions relating to electronic evidence. The learned Magistrate failed to consider the provisions relating to electronic evidence, such as prosecution has not placed on record the hash value, device details, forensic extraction reports, certificate requirements concerning electronic records. The order passed by the learned Magistrate violates the fundamental rights and protection against self-incrimination of the petitioners-A1 and A2.

3.2 Learned counsel for the petitioners submits that Criminal Revision Case is maintainable under Section 438 and 442 of BNSS, 2023. In support of his contention has relied on the decisions in the cases of (i) Amar Nath and Others vs. State of Haryana and Another[1], (ii) Madhu Limaye vs. The State of Maharashtra[2], (iii) Amit Kapoor vs. Ramesh Chander and another[3] and (iv) Honnaiah T.H. vs. State of Karnataka and Others[4] and prayed to set aside the impugned order.

4.1 Respondent has filed counter and contended that the Investigating Officer i.e., Deputy Superintendent of Police, CID, examined and recorded the statements of nine witnesses including

[1] (1977) 4 SCC 137
[2] (1977) 4 SCC 551 (three Judge Bench)
[3] (2012) 9 SCC 460
[4] 2022 SCC OnLine SC 1001

victim and four independent witnesses and collected documentary and electronic evidence relevant to the case and the same was sent to FSL for analysis vide FSL Cases File No.SFSL (TS)/2843 FAV/61/26, dated 20.03.2026 and File No.SFSL (TS)/4418 FAV/94/26, dated 24.03.2026 and the report from FSL authorities is awaited. Petitioner No.1 - A1 made inflammatory, derogatory and communally provocative remarks during the incident on 29.01.2026 at 04.30 p.m. The remarks made by petitioner No.1 - A1 against the Commissioner of Police, Karimnagar is as under:

> "Ippudu Muslim CP unte Hinduvulanu Khatham pattisthada mee CP?",
> "Hindu sampradayamulu, Hindu culture mottham khatham chesukovala?", and
> "Endukumee CP aapindu? Eeyala Muslim CP kabatti aputhunnada?"

Petitioner No.2 - A2 also made a provocative statement against Commissioner of Police, Karimnagar, which is as under:

> "Mee CP edi amaina Pakistan cheddamanukuntunnada?". The petitioner/A1 also stated "Idhi Pakisthana".

During the road blockage in the second incident which happened on the same day i.e., 29.01.2026 at 04.45 p.m. Petitioner No.1 - A1 made the following remarks against the Commissioner of Police, Karimnagar:

> "CP thurkodu, thurkodu chepthe memu vinala?",

"Nuvvu Hinduvukada? Thurkodu chepthe entavuntava nuvvu?",
"Veenavankanu thagalabedtha,"
"Polisollaku ijjath undali, mi CP ki ijjath undali, Chal" and
"Repu press met petti thidtha mee CP ni. Em thamasha anukuntunnara"

4.2 Police has issued notice under Section 35(3) of BNSS to petitioner No. 1 - A1, who appeared before the Investigating Officer on 04.04.2026, his examination was conducted under videography. During the course of examination, petitioner No. 1 - A1 was confronted with the videography footage depicting his speech containing abusive and derogatory remarks against the Commissioner of Police and other police officials, besides issuing threats and making provocative statements forming part of the present offence. However, petitioner No.1-A1 categorically denied the entire contents of the videography footage and falsely claimed that the person appearing in the video was not him and disowned his involvement in the acts depicted therein.

4.3 Notice under Section 35(3) of BNSS 2023 was duly served on petitioner No.2 - A2 on 03.03.2026 directing him to appear before the Investigating Officer in connection with the crime. Petitioner No.2 - A2 appeared before the Investigating Officer on 02.04.2026. During the course of examination, petitioner No.2 - A2 was specifically questioned regarding his involvement in the commission of the present offence and the derogatory and abusive

remarks allegedly made by him against the Commissioner of Police and other police officials. Petitioner No. 2 - A2 denied the allegations in toto and stated that he had no knowledge or recollection of the incident and that he did not remember making any such remarks. He failed to furnish any plausible or satisfactory explanation to the specific questions put to him, his replies were evasive and intended to suppress the true facts and attempt to evade criminal liability.

4.4 Petitioner No.1 - A1 is a public representative involved in 51 criminal cases registered across various police stations in the State of Telangana. Out of 51 cases, about 26 cases are registered within Karimnagar Commissionerate and about 25 cases are registered in other Commissionerates/Districts and the cases are at various stages of investigation and trial, reflecting the petitioner No. 1 - A1's criminal antecedents and repeated involvement in law and order related offences.

4.5 Petitioners - A1 and A2 neither answered the questions put to then nor cooperated with the investigation and they denied their voice captured in the videography recorded on the day of incident. As such IO was constrained to file Crl M.P. No. 127 of 2026 before the learned Magistrate, Karimnagar in Crime No. 30 of 2026 of

Huzurabad P.S., seeking permission to obtain voice samples of the petitioners - A1 and A2 for the investigation.

4.6 Learned Public Prosecutor has filed additional counter on 02.11.2026 vide USR No.140654 of 2026, wherein, he stated that section 397(2) of Cr.P.C./Section 438 (2) of BNSS expressly bars the excise of revisional jurisdiction in respect of interlocutory orders passed by any Court during an enquiry, trial or other proceedings. The object of this provision is to prevent unnecessary interruption of criminal proceedings by filing revisions against every procedural or intermediate direction issued by the Court, therefore unless the impugned orders affects the substantive rights of the parties or determines an important issue affecting the proceedings, the same cannot be challenged by way of Criminal Revision Case. Therefore entertaining Criminal Revision Case itself is bad in law, on the sole ground criminal revision case is liable to be dismissed. In support of his contention, has relied on the decisions in the cases of (i) Amar Nath[1], (ii) Madhu Limaye[2] and (iii) Girish Kumar Suneja vs. Central Bureau of Investigation[5].

4.7 Learned Public Prosecutor on the merits of the matter has relied on the decisions in the cases of (i) Sudhir Chaudhary Etc.

[5] (2017) 14 SCC 809

Vs. State (NCT of Delhi)[6], (ii) Ritesh Sinha Vs, State of Uttar Pradesh and another[7] and (iii) Rahul Agarwal vs. The State of West Bengal and Another[8]. There is no perversity in the order and prayed to dismiss the revision.

5.1 Heard learned counsel for the petitioners and learned Public Prosecutor for the respondent, perused the material on record.

5.2 Learned counsel for the petitioners has field his written submissions.

6. Now the points for consideration are:

(i) Whether the Criminal Revision Case is maintainable under Sections 438 and 442 of BNSS against the order in Crl.M.P.No.127 of 2026 in Crime No.30 of 2026 dated 25.06.2026.

(ii) Whether the learned Magistrate has properly exercised its jurisdiction in allowing Crl.M.P.No.127 of 2026 in Crime No.30 of 2026, dated 25.06.2026 subjecting the petitioners - A1 and A2 to give their specimen voice sample for the purpose of forensic examination and comparison.

[6] Crl.A.No.700-701 of 2016 of Supreme Court of India [three Judge Bench], dated 29.07.2016
[7] (2019) 8 SCC 1 (three judge bench)
[8] 2025 LiveLaw (SC) 1002

(iii) Whether the order passed by the learned Magistrate in Crl.M.P.No.127 of 2026 in Crime No.30 of 2026 of PS Huzurabad town suffers from any perversity or illegality? If so, does it require interference of this court?

POINT NO.1:

7. T. Karunakar, Inspector of Police, Huzurabad, has lodged a report before PS Huzurabad Town Police Station, Karimnagar District on 29.01.2026. It is stated in the complaint that the accused persons i.e., P.Koushik Reddy, BRS Party MLA, Huzurabad Constituency and 15 others of BRS Party followers, formed into unlawful assembly to go to Veenavanka to disturb the Samakka-Saralamma Jathara occasion, they wrongfully restrained the general public by sitting on the road, obstructed the lawful duties of the police personnel and raised religious comments, outraged the religious feelings by taking the name of the Commissioner of Police, Karimnagar and threatened to burn the whole Veenavanka village if they are not let free. There is family dispute in respect of land between A1 - P. Koushik Reddy and one P.Udayanandan Reddy. Basing on the said complaint, FIR No.30 of 2026 came to be registered for the offences under Sections 189(3), 126(2), 132, 299, 196, 351(2) read with Section 190 of BNS.

8. Investigating Officer has filed Crl.M.P.No.127 of 2026 under Section 349 of BNSS, 2023. It is stated in the petition that during the course of investigation the complainant and the relevant witnesses were examined and re-examined, the scene of occurrence was reconstructed, certain audio/video recordings containing incriminating conversations were collected. The said electronic evidence, comprising a pen-drive and a mobile phone containing the questioned recording has already been forwarded to the Forensic Science Laboratory and deposited with FSL case file No.SFSL (TS)/2843 FAV/61/26, dated 20.03.2026, along with letter of advice for scientific examination. Notice under Section 35(3) of BNSS is duly issued to the accused persons directing them to appear and cooperate with the investigation. In order to establish the identity of the speakers in the said recordings, it is essential to obtain specimen voice samples of A1 and A2 and to have the same compared with forensic experts.

9. Petitioners - A1 and A2 have filed their counter in Crl.M.P.No.127 of 2026 by opposing the petition by raising several grounds.

10. The learned Magistrate has allowed Crl.M.P.No.127 of 2026 vide order dated 25.06.2026 which is impugned in the revision.

11. The present Criminal Revision Case is filed under Sections 438 and 442 of BNSS, 2023. For better understanding Sections 438 and 442 of BNSS reads as under:

S. 438. Calling for records to exercise powers of revision.- (1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.

Explanation. All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 439.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

S. 442. High Court's powers of revision.- (1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 427, 430, 431 and 432 or on a Court of Session by section 344, and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 433.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by advocate in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(4) Where under this Sanhita an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Sanhita an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

12. It is apt to refer Sections 2(1)(k) & 2(1)(l) of BNSS, which reads as under:

2(1)(k): 'inquiry' means every inquiry, other than a trial, conducted under this Sanhita by a Magistrate or Court;

2(1)(l): 'investigation' includes all the proceedings under this Sanhita for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf.

13. Learned counsel for the petitioners – A1 and A2 in the written submissions contended that insofar as the interlocutory orders are concerned Section 397(2) of Cr.P.C [438(2) of BNSS, 2023] bars the High Court from entertaining a revision petition against such orders, however insofar as intermediate orders are

concerned, the court can exercise its Revisional jurisdiction, since such orders are not interlocutory. Therefore, the bar under Section 397(2) Cr.P.C. [438(2) BNSS, 2023] is not attracted. The test for determining whether an order under challenge is interlocutory or whether it was passed at an interim stage, the test is whether upholding the objections raised by a party would result in the culmination of the proceedings. An order that substantially affects the rights of the accused or decides certain rights of the parties would not be an interlocutory order.

14.1 In Amar Nath[1] Supreme Court observed at paragraph No.6, which reads as under:

> 6. Let us now proceed to interpret the provisions of Section 397 against the historical background of these facts. Sub-section (2) of Section 397 of the 1973 Code may be extracted thus:
>
> The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding."
>
> The main question which falls for determination in this appeal is as to what is the connotation of the term "interlocutory order" as appearing in sub-section (2) of Section 397 which bars any revision of such an order by the High Court. The term "interlocutory order" is a term of well-known legal significance and does not present any serious difficulty. It has been used in various statutes including the Code of Civil Procedure, Letters Patent of the High Courts and other like statutes. In Webster's New World Dictionary "interlocutory" has been defined as an order other than final decision. Decided cases have laid down that interlocutory orders to be appealable must be those which decide the rights and liabilities of the parties concerning a particular aspect. It seems to us that the term "interlocutory order"

in Section 397(2) of the 1973 Code has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or the liabilities of the parties. Any order which substantially affects the right of the accused, or decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provision in Section 397 of the 1973 Code. Thus, for instance, orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie under Section 397(2) of the 1973 Code. But orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court.

14.2 In Madhu Limaye[2] Supreme Court observed at paragraph Nos.13 and 15, which reads as under:

13. ..... By a rule of harmonious construction, we think that the bar in sub-section (2) of Section 397 is not meant to be attracted to such kinds of intermediate orders. They may not be final orders for the purposes of Article 134 of the Constitution, yet it would not be correct to characterise them as merely interlocutory orders within the meaning of Section 397(2). It is neither advisable, nor possible, to make a catalogue of orders to demonstrate which kinds of orders would be merely, purely or simply interlocutory and which kinds of orders would be final, and then to prepare an exhaustive list of those types of orders which will fall in between the two. The first two kinds are well known and can be culled out from many decided cases. We may, however, indicate that the type of order with which we are concerned in this case, even though it may not be final in one sense, is surely not interlocutory so as to attract the bar of sub-section (2)

of Section 397. In our opinion it must be taken to be an order of the type falling in the middle course.

15. …. From that point of view the matter under discussion may not be said to be squarely covered by the decision of this Court in Mohan Lal Magan Lal Thacker v. State of Gujarat – [(1968) 2 SCR 685]. Yet for the reasons already alluded to, we feel no difficulty in coming to the conclusion, after due consideration, that an order rejecting the plea of the accused on a point which, when accepted, will conclude the particular proceeding, will surely be not an interlocutory order within the meaning of Section 397(2).

14.3 In Amit Kapoor[3] Supreme Court observed at paragraph Nos.20 and 21, which reads as under:

20. The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression "prevent abuse of process of any court or otherwise to secure the ends of justice", the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily.

21. ….. There is no total ban on the exercise of inherent powers where abuse of the process of the court or any other extraordinary situation invites the court's jurisdiction. The limitation is self-restraint, nothing more. The distinction between a final and interlocutory order is well known in law. The orders which will be free from the bar of Section 397(2) would be the orders which are not purely interlocutory but, at the same time, are less than a final disposal. They should be the orders which do determine some right and still are not finally rendering the court functus officio of the lis.

14.4 In Honnaiah T.H.[4] Supreme Court observed at paragraph Nos.15 and 16, which reads as under:

> 15. ... Rejection of the prayer of the Public Prosecutor to mark the statement as an exhibit would possibly imperil the validity of the FIR. In this background, the order of the trial court declining to mark the statement of the informant as an exhibit is an intermediate order affecting important rights of the parties and cannot be said to be purely of an interlocutory nature. In the present case, if the statement of the appellant/informant is not permitted to be marked as an exhibit, it would amount to a gross miscarriage of justice.
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> 16. ... The challenge to the maintainability of the revision at the instance of the appellant impugning an order passed during the pendency of the trial must also be rejected. The revisional jurisdiction of a High Court under Section 397 read with Section 401 of the Cr.P.C, is a discretionary jurisdiction that can be exercised by the revisional court suo motu so as to examine the correctness, legality or propriety of an order recorded or passed by the trial court or the inferior court. As the power of revision can be exercised by the High Court even suo moto, there can be no bar on a third party invoking the revisional jurisdiction and inviting the attention of the High Court that an occasion to exercise the power has arisen.

15.1 Learned Public Prosecutor has also relied upon paragraph No.6 of Amar Nath[1] case and also relied on paragraph No.12 in Madhu Limaye[2] case, which reads as under:

> 12. Ordinarily and generally the expression 'interlocutory order' has been understood and taken to mean as a converse of the term 'final order'.

15.2 In Girish Kumar Suneja[5] Supreme Court observed at paragraph Nos.16, 21 and 24, which reads as under:

16. There are three categories of orders that a court can pass—final, intermediate and interlocutory. There is no doubt that in respect of a final order, a court can exercise its revision jurisdiction—that is in respect of a final order of acquittal or conviction. There is equally no doubt that in respect of an interlocutory order, the court cannot exercise its revision jurisdiction. As far as an intermediate order is concerned, the court can exercise its revision jurisdiction since it is not an interlocutory order.

21. The concept of an intermediate order was further elucidated in Madhu Limaye v. State of Maharashtra [(1977) 4 SCC 551] by contradistinguishing a final order and an interlocutory order. This decision lays down the principle that an intermediate order is one which is interlocutory in nature but when reversed, it has the effect of terminating the proceedings and thereby resulting in a final order. Two such intermediate orders immediately come to mind—an order taking cognizance of an offence and summoning an accused and an order for framing charges. Prima facie these orders are interlocutory in nature, but when an order taking cognizance and summoning an accused is reversed, it has the effect of terminating the proceedings against that person resulting in a final order in his or her favour. Similarly, an order for framing of charges if reversed has the effect of discharging the accused person and resulting in a final order in his or her favour. Therefore, an intermediate order is one which if passed in a certain way, the proceedings would terminate but if passed in another way, the proceedings would continue.

24. The second reason why Amar Nath v. State of Haryana [(1977) 4 SCC 137] is important is that it invokes the principle, in the context of criminal law, that what cannot be done directly cannot be done indirectly. Therefore, when Section 397(2) Cr.P.C prohibits interference in respect of interlocutory orders, Section 482 Cr.P.C cannot be availed of to achieve the same objective. In other words, since Section 397(2) Cr.P.C

prohibits interference with interlocutory orders, it would not be permissible to resort to Section 482 Cr.P.C to set aside an interlocutory order. This is what this Court held: (SCC p. 140, para 3)

> "3. While we fully agree with the view taken by the learned Judge that where a revision to the High Court against the order of the Subordinate Judge is expressly barred under sub-section (2) of Section 397 of the 1973 Code the inherent powers contained in Section 482 would not be available to defeat the bar contained in Section 397(2). Section 482 of the 1973 Code contains the inherent powers of the Court and does not confer any new powers but preserves the powers which the High Court already possessed. A harmonious construction of Sections 397 and 482 would lead to the irresistible conclusion that where a particular order is expressly barred under Section 397(2) and cannot be the subject of revision by the High Court, then to such a case the provisions of Section 482 would not apply. It is well settled that the inherent powers of the Court can ordinarily be exercised when there is no express provision on the subject-matter. Where there is an express provision, barring a particular remedy, the Court cannot resort to the exercise of inherent powers."
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> (emphasis supplied)

16.1 In Sudhir Chaudhary[6] (three Judge Bench), a petition was instituted under Section 482 of the Code of Criminal Procedure before the High Court of Delhi challenging the order dated 07.07.2014 of the Additional Sessions Judge-01 Patiala House Courts, New Delhi, for obtaining the voice samples of the accused therein.

16.2 In Ritesh Sinha[7] (three Judge Bench) the investigating authority has made an application before the learned jurisdictional Magistrate for recording the voice samples, the learned jurisdictional Magistrate vide order dated 08.10.2010 issued summons to the accused to appear before the investigating officer and give voice samples. The order of the learned Magistrate was challenged before the High Court of Allahabad under Section 482 of Cr.P.C.

17. An order directing an accused to give voice sample is purely step-in-aid of investigation or procedural interim order, it does not determine the guilt or innocence of the accused. It does not terminate the criminal proceedings or finally decide the rights of the parties.

18. In intermediate orders the proceedings would terminate, but if passed in another way, the proceedings would continue. Investigation in the case is still pending and on careful reading of Section 438(2) of BNSS 2023, it states that the powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

19. At the cost of repetition, the petition filed by the investigating officer itself shows that investigation is still pending in Crime No.30 of 2026.

20. This Court is of the view that the order passed by the learned Magistrate is not an intermediate order and the contention of the learned counsel for the petitioners that the bar under Section 438(2) of BNSS is not attracted, is negatived. The submissions of the learned counsel for the petitioners that an order that substantially affects the rights of the accused or decides certain rights of the parties would not be an interlocutory order is also negatived in view of the fact that the order passed by the learned Magistrate is an interlocutory order, which is supported with the decision in Sudhir Chaudhary[6] (three Judge Bench), Ritesh Sinha[7] [three Judge Bench] whereunder in similar set of facts the order passed by the learned Magistrate therein for collection of voice samples were challenged before the High Court of Delhi and Allahabad under Section 482 of Cr.P.C [528 of BNSS].

21. In view of the clear bar under Section 438 of BNSS 2023, the Criminal Revision Case is not maintainable under Sections 438 and 442 of BNSS hence point No.1 is answered accordingly.

22. Since Criminal Revision Case itself is not maintainable under Sections 438 and 442 of BNSS, this Court is not venturing into the merits of the order passed by the learned Magistrate in respect of point Nos.2 and 3. Hence, this Court refrains from discussing further with regard to the merits of the orders passed thereon.

23. Criminal Revision Case is dismissed as not maintainable.

Interim orders if any stands vacated. Miscellaneous petition/s stands closed.

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B.R.MADHUSUDHAN RAO, J

Date: 16.11.2026
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