APHC010710082025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3521]**
(Special Original Jurisdiction)

WEDNESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO:13461/2025

Between:

1. MAGMA CONSULTANCY, REP. BY ITS MANAGING PARTNERS. SRINIVASARAO, 0/0.6-3-1247/296, RAJNAGAR,OPP RAJ BHAVAN, SOMAJIGUDA, HYDERABAD.
2. S SRINIVASA RAO, S/O. VENKATA SUBBAIAH,MANAGING PARTNER OF M/S. MAGMA CONSULTANCY,0/0.6-3-1247/296, RAJNAGAR,OPP RAJ BHAVAN, SOMAJIGUDA, HYDERABAD.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT BUILDINGS, AMARAVATHI.
2. A P HOUSING BOARD CORPORATION LIMITED, FLOOR, VUDA COMPLEX. SECTOR 12, MVP COLONY, USHODAYA JUNCTION, VISHAKHAPATNAM CITY, VISHAKHAPATNAM DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Courtpleased to quash the proceedings in FIR No. 185 OF 2019, DATED 10-06-2019 on the file of Muwulavanipalem Police Station, Vishakhapatnam District in the interest of justice and pass

Counsel for the Petitioner/accused(S):

1. RAJA REDDY KONETI

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR

The Court made the following <u>ORDER</u>:

The Criminal Petition has been filed seeking to quash the proceedings against the petitioners/ A1 and A2 in Cr.No.185 of 2019 of Muvvalavanipalem Police Station, Visakhapatnam District.

2. Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor. Perused the record.

3. Learned counsel for petitioners submits that the alleged offences leveled against the petitioners are punishable with imprisonment for less than seven (07) years.

4. In this regard, it is apposite to mention the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**[1]**,** wherein a detailed guidelines were issued at Para Nos.11 and 12, for arresting a person, which are being reproduced herein below:-

> *11.Our endeavor in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:*
> *a).All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.');*
> *b)All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);*

[1] **(2014) 8 SCC 273**

c) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
d) The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
e) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
f) Notice of appearance in terms of Section 41-A of Cr.P.C be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
g) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, he shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.
h) Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
12.We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

5. The similar view is also reiterated by the Hon'ble Apex Court in **Md. Asfak Alam v. the State of Jharkhand**[2], which also reiterated the guidelines laid down in the case of *Arnesh Kumar.*

[2] **(2023) 8 SCC 632**

6. In the light of the law laid down in the case of *Arnesh Kumar* and *Md. Asfak Alam,* the investigating officer is under legal obligation to proceed in accordance with law, but he shall follow the procedure prescribed under Sections 41 and 41(A) of 'the Cr.P.C.,' (now Sections 35 and 35(3) of 'the B.N.S.S.,' 2023). The petitioners are obliged to render their fullest cooperation in the ongoing investigation.

7. In the result, the Criminal Petition is disposed of directing the Investigating Officer to comply with Section 35(3) of 'the BNSS'/41-A of 'the Cr.P.C.,' and to strictly follow the directions issued in the cases of *Arnesh Kumar* and *MD. Asfak Alam* scrupulously.

As a sequel, all pending applications shall stand closed.

DR JUSTICE Y. LAKSHMANA RAO

Date: 31.12.2025
Dvs

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THE HON'BLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION No.13461 of 2025

Date: 31.12.2025

Dvs