

APHC010270632011



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

[3560]

FRIDAY, THE 31st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 548/2011

Between:

1.DHARMISETTY CHANDRASEKHAR,, S/O SUBBARAYUDU, R/O
EDIGAPALEM STREET, RAJAMPET TOWN, KADAPA DIST.

...PETITIONER

AND

1.K RAMACHANDRAIAH, S/O SESHIAIAH, BUSINESS R/O POLI
VILLAGE & POST, RAJAMPET MANDAL, KADAPA DIST.

2.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH,
HYDERABAD.

...RESPONDENT(S):

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the CriminalRevisionCase, the High Court may be pleased to present this CrI.R.C., aggrieved by the Judgment and sentence imposed in C.C.No.20 of 2008 on the file of the Court of the Judl. First Class Magistrate, Rajampet, dated 06.05.2009 as confirmed in CrI.A.No.68 of 2009 on the file of the Court of the III Addl. Sessions Judge, Kadapa at Rajampet, dated 04.03.2011.

IA NO: 1 OF 2011(CRLRCMP 799 OF 2011)

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 dispense with the filing of certified copy of the Judgment in C.C.No.20 of 2008

on the file of the Court of the Judl. First Class Magistrate, Rajampet, dated 06.05.2009 and to accept the xerox copy of the same.

IA NO: 2 OF 2011(CRLRCMP 823 OF 2011)

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 suspend the execution of sentence dated 06.05.2009 in C.C.No.20 of 2008 on the file of the Court of the Judl. First Class Magistrate, Rajampet, as confirmed by the Judgment dated 04.03.2011 in Crl.A.No.68 of 2009 on the file of the Court of the III Addl. Sessions Judge, Kadapa at Rajampet, and release the petitioner on bail, pending disposal of the Crl.R.C.

IA NO: 1 OF 2012(CRLRCMP 1795 OF 2012)

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 expedite the hearing of the above Crl.R.C.No.548 of 2011 by fixing an early date.

IA NO: 1 OF 2024

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 clarify the order dated 01.08.2024 in Crl.R.C.No.548 of 2011 on the file of this Honourable Court to the effect that the Learned I Class Magistrate, Rajampet shall entertain the bail application of the petitioner and grant bail to the petitioner on the application of the petitioner, in the interest of justice; and pass

IA NO: 2 OF 2024

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 grant bail to the petitioner, in connection with the order of this Hon'ble Court dated 1/8/2024 in CRL.R.C.NO 548 OF 2011 in the interest of justice

IA NO: 1 OF 2025

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

pleased to condone the delay of 03 days in representing the above IA.(Sr).
No. 5590 of 2025 in CRLRC No. 548 of 2011 and pass

IA NO: 2 OF 2025

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 permit the Petitioner to file the additional documents in Crl.R.C No.548 of 2011 in the interest of justice and pass

Counsel for the Petitioner:

1.N SAI PHANINDRA KUMAR

Counsel for the Respondent(S):

1.PUBLIC PROSECUTOR

2.SATYANARAYANA NIMMALA

3.-

The Court made the following Order:

The instant Criminal Revision has been preferred against an order of conviction and sentence imposed against the petitioner/accused in C.C.No.20 of 2008 on the file of Court of the Judicial First Class Magistrate, Rajampet, dated 06.05.2009. Thereafter, it has been confirmed in Criminal Appeal No.68 of 2009 on the file of the learned III Additional Sessions Judge, Kadapa, dated 04.03.2011.

2. The brief fact of the matter is that the petitioner was arrayed as an accused in the C.C. for an offence punishable under Section 138 of Negotiable Instruments Act, 1881. It is the case of the prosecution that the petitioner purchased steel and cement for his works worth of Rs.2,14,360/-, on 28.03.2007 from the complainant. On the same day, he issued a cheque bearing No.826208 and it was presented for encashment on the same day, but it was dishonoured and returned to the complainant; on the request of the petitioner, the said cheque was again presented, on 24.09.2007 and on the same day, it was again dishonoured and returned with an endorsement 'Insufficient Funds'. Lastly, it was presented, on 24.09.2007, and on the same day it was returned due to "insufficient funds". The complainant issued a demand notice for fulfilling the demand of the cheque amount but as it was not fulfilled, a case was registered.

3. The learned Trial Court found the petitioner to be guilty for the offence punishable under Section 138 of N.I. Act and convicted him under Section 255(2) of Cr.P.C. and directed to undergo rigorous imprisonment for a period of two (02) years, an appeal was preferred against the said order. The learned Appellate Court has modified the order of punishment and sentenced the petitioner to undergo simple imprisonment for a period of one (01) year and also sentenced to pay a fine of Rs.4,28,720/- being twice of the cheque amount.

4. The learned counsel for the petitioner basically raised two (02) points before this Court for consideration. Firstly, he argued that the cheque was finally returned *vide* return memo dated 24.09.2007. However, the legal notice was issued, on 25.10.2007, which was marked as Ex.A5. Thus, the legal notice was served after one (01) month from the date of cheque return memo. It appears the said point was neither raised nor argued during arguments before the learned Trial Court. On perusal of the exhibited documents, it appears legal notice was marked as Ex.A.5, it was issued, on 22.10.2007 and on the same day i.e., 22.10.2007, it was registered *vide* registered acknowledgment and receipt (Exs.A6 & A7).

5. The learned counsel for the petitioner has also argued another point before this Court that the respondent/complainant had failed to prove legally enforceable debt. In this particular case, he submits that it has been pleaded in the petition that the petitioner has purchased some steel and cement from

the complainant, but no such receipt of purchase or the business transaction was filed before the Court. Hence, the petitioner failed to prove the existence of a legally enforceable debt.

6. Having perused the observations of the learned Trial Court as well as the learned Appellate Court, it appears, they are of a view, since the petitioner did not deny his signature over the cheque, it has to be presumed that the cheque was issued towards the legally enforceable debt. I have perused the entire observations of the learned Trial Court and the learned Appellate Court. If the petitioner is of the view that there is no legally enforceable debt and the cheque was not issued for the same, it has to be proved by the petitioner by placing cogent and sufficient evidence.

7. It appears from the record that the petitioner being the accused has not placed any evidence either oral or documentary before the learned Trial Court to substantiate his defense. Thus, at this juncture, this Court has no material to entertain the submissions of the learned counsel for the petitioner. Furthermore, it appears that the observations of the learned Trial Court as well as the learned Appellate Court suffer no illegality or impropriety.

8. During pendency of the instant Criminal Revision, one application bearing I.A.No.2 of 2025 was placed on record containing a separate proceeding. It has been stated that the summoned amount was again transacted between the parties by issuance of a promissory note for

Rs.2,14,000/-, for which a Suit bearing O.S.No.100 of 2009 was filed, which was decreed and the amount was duly executed. He submits that the amount which is subject matter in the instant case by way of issuance of cheque has already been accepted by the complainant in another transaction. The learned counsel for the respondents submits that he has made a query with his client in respect of this fact, in which replied the amount mentioned in the cheque as well as in the promissory note are distinct.

9. Heard the learned counsel for the parties.

10. It appears that I.A.No.2 of 2025 or documents thereof were not placed before the learned Trial Court or the learned Appellate Court. There were opportunities for the petitioner, being the accused before the learned Trial Court to place the matter on record, so that a decision can be arrived at. Now, this Court cannot entertain the said petition. However, considering the entire aspect, this Court finds nothing to interfere with the judgment passed by the learned Trial Court and the learned Appellate Court.

11. Accordingly, the order of conviction and the sentence passed against the petitioner are justifiable. However, it appears that the instant proceeding is pending since 2009. More than 15 years have already been elapsed. In this particular case, though the learned Appellate Court has modified the sentence for the some reasons, a fine which was twice the cheque amount has been

imposed upon the petitioner. But no compensation has been awarded to the complainant.

12. At this juncture, I think it necessary to modify the sentence passed by the learned Appellate Court. Accordingly, the conviction of the appellant/accused for the offence punishable under Section 138 of the N.I. Act passed by the learned Trial Court confirmed by the learned Appellate Court is further confirmed, but the sentence is modified to the effect that the appellant/accused is sentenced to pay a fine of Rs.3,20,000/- amongst which the compensation amount should be Rs.2,50,000/- payable to the complainant. The fine amount as well as the compensation have to be paid within a period of eight (08) weeks from the date of passing of the order, failing which the petitioner/accused shall undergo simple imprisonment for a period of six (06) months. The amount of compensation to the complainant shall follow the provisions under Section 357(b) of Cr.P.C.

13. Accordingly, this Criminal Revision Case is disposed of.

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

SUBHENDU SAMANTA, J

Date:31.07.2026

KPV

157

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE No:548 of 2011

31.07.2026

KPV