



## WRIT APPEAL NO: 26 of 2025

KishanTummala and others

...Appellants

Vs.

The State of AP and others

...Respondents

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Advocate for Appellant:

Mr. Gopala Rao Amancharla V

Advocate for Respondent:

GP for Home

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR  
SRI JUSTICE RAVI CHEEMALAPATI****DATE : 21<sup>st</sup> January, 2025.****P C :**

An F.I.R. bearing No.368 of 2024, dated 23.11.2024, came to be registered against the petitioners/appellants herein in Mangalagiri Town Police Station, under Sections 409, 420 and 120B of IPC.

2. The appellants challenged the filing of the First Information Report (F.I.R.) before the learned single Judge in Writ Petition No.29932 of 2024 and sought for issuance of an appropriate writ by quashing the same, on the ground that the dispute had its genesis in a private agreement between the parties which was in effect a civil dispute and that the same could not be given the colour of criminal offence, warranting registration of an F.I.R. against the petitioners and putting the petitioners through the rigmarole of a criminal action.

3. By virtue of order, dated 19.12.2024, the learned single Judge did not accept the prayer of the petitioners for grant of interim relief, rather while giving time to the respondents for filing counter-affidavit, directed the police authorities to follow due procedure established by law during the investigation of the case.

4. The present writ appeal has been preferred by the petitioners challenging the said order, dated 19.12.2024, on the ground that the learned single Judge failed to stay the operation of the F.I.R., even though there was sufficient material placed on record to show that the dispute was, in fact, civil in nature, which could not have been given the colour of a criminal case, and that this was being done by the complainant and the police authorities only to coerce the appellants into negotiating with the complainant.

5. We have heard learned counsel for the appellants.

6. Apart from the fact that the writ appeal has been preferred against an interim order, the issue that arises in the present case is with regard to the maintainability of the present Letters Patent Appeal, which is no longer *res integra*.

7. Clause 15 of the Letters Patent does not permit the filing of an intra-Court appeal to a Division Bench from an order passed by a single Judge in exercise of criminal jurisdiction.

8. In **Ram Kishan Fauji vs. State of Haryana and others**,<sup>1</sup> the Apex Court had not accepted the view expressed by a Full Bench of the composite High Court of Andhra Pradesh, wherein the Full Bench had held that when the power was exercised under Article 226 of the Constitution for quashing of criminal proceedings, there was no exercise of criminal jurisdiction. A distinction was sought to be made between proceedings for quashing of the F.I.R. under Section 482 of the Criminal Procedure Code and the powers exercisable by the High Court under Article 226 of the Constitution for quashing of criminal proceedings.

9. The Apex Court, however, held that the view expressed by the Full Bench of the composite High Court of Andhra Pradesh was incorrect and proceeded to hold as under:

*“56. As we find from the decisions of the aforesaid three High Courts, it is evident that there is no disagreement or conflict on the principle that if an appeal is barred under Clause 10 or Clause 15 of the Letters Patent, as the case may be, no appeal will lie. The High Court of Andhra Pradesh, however, has held that when the power is exercised under Article 226 of the Constitution for quashing of a criminal proceeding, there is no exercise of criminal jurisdiction. It has distinguished the proceeding for quashing of FIR under Section 482 Cr.P.C and, in that context, has opined that from such an order, no appeal would lie. On the contrary, the High Courts of Gujarat and Delhi, on the basis of the law laid down by this Court in IshwarlalBhagwandas, have laid emphasis on the seed of initiation of criminal proceeding, the consequence of a criminal proceeding and also the nature of relief sought before the Single Judge under Article 226 of the Constitution. The conception of ‘criminal jurisdiction’ as used in Clause 10 of the Letters Patent is not to be construed in the narrow sense. It encompasses in its gamut the inception and the consequence. It is the*

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<sup>1</sup> (2017) 5 SCC 533

*field in respect of which the jurisdiction is exercised, is relevant. The contention that solely because a writ petition is filed to quash an investigation, it would have room for intra-court appeal and if a petition is filed under inherent jurisdiction under Section 482 Cr.P.C., there would be no space for an intra-court appeal, would create an anomalous, unacceptable and inconceivable situation. The provision contained in the Letters Patent does not allow or permit such an interpretation. When we are required to consider a bar or non-permissibility, we have to appreciate the same in true letter and spirit. It confers jurisdiction as regards the subject of controversy or nature of proceeding and that subject is exercise of jurisdiction in criminal matters. It has nothing to do whether the order has been passed in exercise of extraordinary jurisdiction under Article 226 of the Constitution or inherent jurisdiction under Section 482 Cr.P.C.*

58. *In view of the aforesaid premised reasons, we hold that the High Courts of Gujarat and Delhi have correctly laid down the law and the view expressed by the Full Bench of the High Court of Andhra Pradesh is incorrect.”*

10. Following the ratio of the aforementioned judgment, a similar view has been taken by one of us (Justice Dhiraj Singh Thakur, J) in the case of **G. Swamy Naidu vs. State of Andhra Pradesh**<sup>2</sup>, decided on 28.11.2023.

11. Be that as it may, we hold that the present writ appeal is not maintainable and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

**DHIRAJ SINGH THAKUR, CJ.**

**RAVI CHEEMALAPATI, J.**

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<sup>2</sup> WA.No.849 of 2023