

## Sri. V. Bala Peddanna Vs The State of Andhra Pradesh

**Court:** Andhra Pradesh High Court

**Date of Decision:** June 20, 2013

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 344, 482  
Penal Code, 1860 (IPC) â€” Section 193, 302

**Citation:** (2013) 2 ALD(Cri) 466 : (2013) 3 ALT(Cri) 224

**Hon'ble Judges:** R. Kantha Rao, J

**Bench:** Single Bench

**Advocate:** V. Nitesh, for the Appellant;

**Final Decision:** Allowed

### Judgement

@JUDGMENTTAG-ORDER

R. Kantha Rao, J.

This criminal petition is filed u/s 482 of the Code of Criminal Procedure to quash the show-cause notice, dated 08-05-2013, issued by the Sessions Judge, Ananthapur alleging that petitioner gave false evidence in S.C. No. 464 of 2012 and thereby committed an

offence punishable u/s 193 IPC. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor representing the State.

2. I have perused the judgment rendered by the Sessions Judge in S.C. No. 464 of 2012 and show-cause notice, dated 08-05-2013, issued to

the petitioner. The petitioner is a Village Revenue Officer of Bathalapalli village in Ananthapur District. He was figured as mediator in the charge

sheet filed by the Investigating Officer in S.C. No. 464 of 2012 on the file of the Court of District & Sessions Judge, Ananthapur. In the said case,

the accused was tried for the offence u/s 302 IPC and was ultimately acquitted by the Sessions Judge, Ananthapur, on the ground that the

prosecution failed to establish the guilt of the accused.

3. According to the prosecution, the petitioner was present when the police arrested the accused and recorded the confession of the accused,

which lead to recovery of gunny bag containing iron pipe and cell phone. The said articles were allegedly seized under the cover of panchanama,

which was attested by the petitioner and another.

4. The petitioner who was examined as P.W.7 stated in the evidence before the learned Sessions Judge that on 02-01-2012 at about 1.30 PM,

the inspector of police called him to Pothukunta Police Station, Dharmavaram, informed him that he arrested the accused in Obulapuram murder

case and asked the petitioner to subscribe his signatures on panchanama. Accordingly, the petitioner subscribed his signatures.

5. While rendering the judgment in the said Sessions Case, the learned Sessions Judge observed that the petitioner/P.W.7 signed on each page of

the panchanama, knowing that they would be used as evidence in Court in the trial of murder case and gave contradictory version in the Court.

Making the said observation, learned Sessions Judge issued show-cause notice against the petitioner stating that he gave false evidence and

therefore, committed an offence punishable u/s 193 IPC.

6. The mere fact that the petitioner deposed contrary to the contents of the panchanama does not by itself indicate that the petitioner gave false

evidence. The petitioner in chief examination clearly stated that he was called to the police station and was informed by the Inspector of Police that

he arrested the petitioner in Obulapuram murder case and thereafter the Inspector asked him to sign on the panchanama. The document i.e.

panchanama cannot be treated as a substantive piece of evidence, unless the contents mentioned in panchanama are spoken to by the witness to

the said document, it cannot be said to be proved in the course of trial before the Learned Sessions Judge. Except the evidence of the Investigating

Officer, there was no material before the Learned Sessions Judge showing that the petitioner gave false evidence. The version of the petitioner that

the Inspector of police obtained his signatures on the panchanama stating that he arrested the accused in Obulapuram murder case may also be

true.

7. In Chajoo Ram Vs. Radhey Shyam and Another, the Supreme Court dealing with the same situation held as follows:-

The prosecution for perjury should be sanctioned by Court only in those cases where the perjury appears to be deliberate and conscious and the

conviction is reasonably probable or likely. No doubt giving of false evidence and filing false affidavits is an evil which must be effectively curbed

with a strong hand but to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful

material defeats its very purpose. Prosecution should be ordered when it is considered expedient in the interest of justice to punish the delinquent

and not merely because there is some inaccuracy in the statement which may be innocent or immaterial. There must be prima facie case of

deliberate falsehood on a matter of substance and the Court should be satisfied that there is reasonable foundation for the charge.

8. In the instant case, as already said, absolutely there was no material before the learned Sessions Judge showing that the petitioner gave false

evidence. The learned Sessions Judge only indicated in the notice that petitioner having signed the panchanama gave evidence contrary to its

contents and therefore, resorted to give false evidence. The view taken by the learned Sessions Judge is misconceived and without there being any

sufficient material before him had taken steps to prosecute the petitioner according to the provisions of Section 344 Cr.P.C. and issued show-

cause notice. In pursuant to the said show-cause notice, if petitioner is made to face further proceedings, it would be only a futile exercise and

ultimately, it would result in miscarriage of justice. Therefore, show-cause notice, dated 08-05-2013, issued by the Sessions Judge, Ananthapur is

quashed and accordingly, the Criminal Petition is allowed. The miscellaneous petitions, if any, filed in this petition shall stand closed.