* HON'BLE SRI JUSTICE K.SURESH REDDY & HON'BLE SMT JUSTICE V.SUJATHA

+CRIMINAL APPEAL NOS.110, 138, 139 AND 169 OF 2025

% 03.07.2025

CRIMINAL APPEAL NO.110 of 2025

Rela Rajeswari W/o Sudhakar Raju

... Appellant

Vs.

\$ State of A.P. represented by its Public Prosecutor,

.... Respondent

! Counsel for the Appellant: SRI SUNKARA RAJENDRA PRASAD

Counsel for the Respondent: ADDITONAL PUBLIC PROSECUTOR

CRIMINAL APPEAL NO.138 of 2025

MANUKONDA SRINIVASA RAO S/o LATE SUBBA RAO

... Appellant

Vs.

\$ State of A.P. represented by its Public Prosecutor,

.... Respondent

! Counsel for the Appellant: SRI T.PRADYUMN KUMAR REDDY,

learned Senior Counsel appearing on behalf of MS GANGA BHAVANI RAGI

Counsel for the Respondent: ADDITONAL PUBLIC PROSECUTOR

CRIMINAL APPEAL NO.139 of 2025

? Cases referred:

- 1. AIR 1963 SCC 749
- 2. (2003) 7 SCC 749
- 3. (2022) 12 SCC 240
- 4. 2012 LawSuit(SC) 629
- 5. 2019 Law Suit (SC) 1753

HON'BLE SRI JUSTICE K.SURESH REDDY & HON'BLE SMT JUSTICE V.SUJATHA

CRIMINAL APPEAL Nos.110, 138, 139 AND 169 OF 2025

Date of Judgment Pronounced: 03.07.2025

Submitted for Approval:

SRI JUSTICE K.SURESH REDDY AND SMT JUSTICE V.SUJATHA

1.	Whether Reporters of Local newspaper may be allowed to see the judgments?	s Yes/No
2.	Whether the copies of judgment may be marked to Law Reporters/Journals?	e Yes/No
3.	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	to Yes/No
	JUS	TICE K.SURESH REDDY
		JUSTICE V.SUJATHA

APHC010090292025



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI [3528]

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF JULY TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE V.SUJATHA

CRIMINAL APPEAL NOS: 110, 138, 139 AND 169 OF 2025

CRIMINAL APPEAL NO: 110/2025

Between:

1.RELA RAJESWARI, W/O SUDHAKAR RAJU, AGED ABOUT 52 YEARS, R/O.HOUSE NO. 14-867, DOLAS NAGAR, TADEPALLY, GUNTUR DISTRICT, ANDHRA PRADESH.

...APELLANT

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL PUBLIC PROSECUTOR, AT AMARAVATI.
- 2.THE DEPUTY SUPERINTENDENT OF POLICE, CHIEF INVESTIGATING OFFICER, NATIONAL INVESTIGATION AGENCY, HYDERABAD BRANCH OFFICE.

...RESPODENT(S):

Counsel for the Appellant:

1.SUNKARA RAJENDRA PRASAD

Counsel for the Respondent(S):

DEPUTY SOLICITOR GENERAL OF INDIA

CRIMINAL APPEAL NO: 138/2025

Between:

1.MANUKONDA SRINIVASA RAO, S/O LATE SUBBA RAO, AGED 50 YEARS, OCC FACULTY OF LAW, R/AT D.NO. 13-408/A, JYOTHINAGAR, ARILOVA, VISAKHAPATNAM.

...APELLANT

AND

- 1.THE UNION OF INDIA, REPRESENTED BY ITS DEPUTY SOLICITOR GENERAL, HIGH COURT OF ANDHRA PRADESH, AMARAVATHI, ANDHRA PRADESH.
- 2.THE SPECIAL PUBLIC PROSECUTOR, NATIONAL INVESTIGATION AGENCY, HYDERABAD.

...RESPODENT(S):

Counsel for the Appellant:

1. GANGA BHAVANI RAGI

Counsel for the Respondent(S):

1. DEPUTY SOLICITOR GENERAL OF INDIA

CRIMINAL APPEAL NO: 139/2025

Between:

1.JANGALA KOTESWARA RAO @ KOTI,, S/O KOTAYYA, AGED 53 YEARS, LABOUR/COOLIE, C/O PRESIDENT, ASSOCIATION, PRAJAKALAMANDALI, GUDIPUDIVARIPALEM, NEAR CHEEMAKURTHY, MAMATHA NAGAR COLONY, NAGOLE, HYDERABAD, TELANGANA STATE

...APELLANT

AND

- 1.THE UNION OF INDIA, REPRESENTED BY ITS DEPUTY SOLICITOR GENERAL, HIGH COURT OF ANDHRA PRADESH, AMARAVATHI, ANDHRA PRADESH.
- 2.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS SPECIAL PUBLIC PROSECUTOR, NIA, HYDERABAD.

...RESPODENT(S):

Counsel for the Appellant:

1.SRINIVASULU P

Counsel for the Respondent(S):

1. DEPUTY SOLICITOR GENERAL OF INDIA

AND

CRIMINAL APPEAL NO: 169/2025

Between:

1.BOPPUDI ANJAMMA, W/O.LATE LAKSHMAYYA, AGED ABOUT 47 YEARS, R/O.HOUSE NO.3-40/1, GANAPAVARAM VILLAGE, NADENDIA MANDAL, GUNTUR DISTRICT, ANDHRA PRADESH.

...APELLANT

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL PUBLIC PROSECUTOR NIA, AT AMARAVATI.
- 2.THE DEPUTY SUPERINTENDENT OF POLICE, CHIEF INVESTIGATING OFFICER, NATIONAL INVESTIGATION AGENCY, HYDERABAD BRANCH OFFICE.

...RESPODENT(S):

Counsel for the Appellant:

1. SUNKARA RAJENDRA PRASAD

Counsel for the Respondent(S):

1. DEPUTY SOLICITOR GENERAL OF INDIA

The Court made the following

COMMON JUDGMENT: - (Per the Hon'ble Sri Justice K.Suresh Reddy)

As the issue involved in all these Criminal Appeals is similar, they are being disposed off, by way of this Common Judgment, at the stage of admission.

- 2. Crl.A.No.110 of 2025 is filed by Accused No.60, under Section 21 of National Investigation Agency Act, 2008, questioning the charges framed by the learned Special Judge for NIA Cases-cum-III Additional District and Sessions Judge, Visakhapatnam (hereinafter referred as 'Special Judge'), dated 04.12.2024 in Sessions Case No.11 of 2023.
- **3.** Crl.A.No.169 of 2025 is filed by Accused No.46 questioning the charges framed by the learned Special Judge on 18.12.2024 in Sessions Case No.11 of 2023.
- **4.** Criminal Appeal No.138 of 2025 is filed by Accused No.80, questioning the order, dated 06.01.2025, passed in Crl.M.P.No.1119 of 2024 in Sessions Case No.11 of 2023 dismissing the discharge application.
- **5.** Whereas Crl.A.No.139 of 2025 is filed by Accused No.84, challenging the order, dated 31.12.2024, dismissing the discharge application, vide Crl.M.P.No.301 of 2024 in Sessions Case No.11 of 2023.
- **6.** Brief facts, leading to filing of these Criminal Appeals, are as follows:-
- (i) The National Investigating Agency filed a charge sheet before the Court of learned Special Judge for NIA Case-cum-III Additional District and Sessions Judge, Visakhapatnam against 84 accused. The

offences alleged in the said charge sheet were under Sections 10, 13 and 18 of the Unlawful Activities (Prevention) Act, 1967, Section 120-B, 121, 120(a), 143, 144, 124(a) read with 149 IPC and Section 8(i), 8(ii) Andhra Pradesh Public Security Act, 1992 and Section 25 of the Arms Act, 1959. Initially Crime No.47 of 2020 was registered on the file of Munchungput Police Station and subsequently, the investigation was entrusted to National Investigating Agency, Hyderabad and the case was re-registered as Rc-01/2021/NIA/Hyderabad, dated 07.03.2021. After registration of crime, all the appellants were arrested and they were enlarged on bail on different dates. It is pertinent to note that FIR was registered on 24.03.2020, whereas charge sheet was filed on 25.01.2021 before the Special Court for NIA Cases and the case was numbered as Sessions Case No.11 of 2023.

The appellants in Crl.A.No.138 and 139 of 2025 have filed (ii) discharge applications, vide Crl.M.P.No.1119 and 301 of 2024 respectively. It was contended by the appellants before the trial Court that the documents, as required under Section 207 Code of Criminal Procedure, 1973 (Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023) were not supplied to them. Apart from the said ground, they also raised grounds for discharge on merits. The National Investigating Agency took objections with regard to the maintainability of the said application and also on merits. After hearing both sides, both the discharge applications were dismissed by the impugned order. already pointed out, the appellants in Crl.A.Nos.110 and 169 of 2025 have not filed any discharge applications and they filed Criminal Appeals questioning the charges framed by the learned Special Judge on the ground that the documents, as required under Section 207 Code of Criminal Procedure (230 Bharatiya Nagarik Suraksha Sanhita, 2023) were not supplied to them.

7. Sri T.Pradyumn Kumar Reddy, learned Senior Counsel appearing on behalf of Ms.Ganga Bhavani Ragi, learned counsel for the appellant in Crl.A.No.138 of 2025, strenuously contends that the accused were supplied all the documents, except the statements of protected witnesses. He further contends that as the statements of the protected witnesses are not furnished to all the accused, they filed Crl.M.P No.174 of 2025 in Sessions Case No.11 of 2023 on 10.02.2025. Learned Special Judge in the docket proceedings, dated 24.03.2025 recorded as follows:-

"During hearing, the National Investigating Agency Constable by name Yashodara Rao submitted that they supplied truncated copies of protected witnesses to the petitioner's counsel. Hence, the petition for supplying necessary copies of the protected witnesses becomes infructuous. Accordingly, the petition is closed".

- 8. In support of his contentions, the learned Senior Counsel has placed a reliance on the Judgments of the Hon'ble Supreme Court reported in Noor Khan vs. State of Rajasthan¹, Shakila Abdul Gafar Khan v. Vasanth Raghunadh Dhoble and another² and Waheed-ur-Rehman Parra vs. Union Territory of Jammu and Kashmir³, V.K.Sasikala vs. State of Karnataka⁴ and Vinubhai Haribhai Malaviya and others vs. State of Gujarat and another⁵.
- **9.** The learned Senior Counsel while relying on the contents of the counter filed by NIA in Crl.M.P.No.174 of 2025 wherein it was categorically mentioned that the statements of the protected witnesses cannot be supplied since it may lead to reveal the identity particulars of

¹ AIR 1963 SCC 749

² (2003) 7 SCC 749

³ (2022) 12 SCC 240

⁴ 2012 LawSuit (SC) 629

⁵ 2019 Law Suit (SC) 1753

the protected witnesses that endanger their lives, has strenuously contended that there is no dispute with regard to the non-supply of the statements of the protected witnesses to the appellants.

- **10.** Whereas, Sri Sunkara Rajendra Prasad, and Sri P.Srinivasulu, learned counsel appearing for appellants in Criminal Appeal Nos.110 of 2025, 139 & 169 of 2025 have also conceded to the arguments of the learned Senior Counsel.
- 11. On the other hand, Sri Challa Dhanunjay, learned Additional Solicitor General of India contends that the Proceedings, dated 16.03.2022 itself indicate that the copies of the documents were furnished to the accused. It also indicates in the Proceedings, dated 06.01.2025 that when A.6 was questioned about the receipt of documents, he answered in an affirmative that he received all the documents except the statements of protected witnesses. Learned Additional Solicitor General of India further contends that he cannot improve the case, as the proceeding sheets and the orders passed by the learned Special Judge dismissing the discharge applications specifically recites the non-supply of statements of protected witnesses to the accused before framing of charges. Learned Additional Solicitor General of India further contends that as per the provisions of Section 250 Bharatiya Nagarik Suraksha Sanhita, 2023, the accused has to prefer an application for discharge within a period of 60 days from the date of commitment of the case under Section 232. He further contends that the present application for discharge was filed on 16.12.2024 after Bharatiya Nagarik Suraksha Sanhita, 2023, came into force. As such, the applications filed by the appellants were not He further opposed by contending that the present maintainable. applications for discharge were filed under the provisions of Code of Criminal Procedure, 1973. He also contends that as per the provisions

of Section 531 of Bharatiya Nagarik Suraksha Sanhita, 2023, appellants ought to have filed the applications under the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023, but not under the provisions of Code of Criminal Procedure, 1973.

- **12.** We have perused the entire material on record.
- **13.** Before going into the merits and demerits of the case, it is relevant to extract the provisions of Section 207 of Code of Criminal Procedure, which reads as under:-

"207. <u>Supply to the accused of copy of police report and</u> other documents.

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following;

- i. the police report;
- ii. the first information report recorded under section 154;
- iii. the statements recorded under Sub-Section
 (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under Sub-Section (6) of section 173;
- iv. the confessions and statements, if any, recorded under section 164;
- v. any other document or relevant extract thereof forwarded to the Magistrate with the police report under Sub-Section (5) of section 173;

Provided that the Magistrate may, after perusing any such pan of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused: Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court."

14. It is an admitted fact that from 1st July, 2024 onwards, Bharatiya Nagarik Suraksha Sanhita, 2023, replaced the Code of Criminal Procedure. The relevant provision to Section 207 of Cr.P.C. in Bharatiya Nagarik Suraksha Sanhita, 2023, is Section 230. For better appreciation, Sections 230 and 531(1) of Bharatiya Nagarik Suraksha Sanhita, 2023, read as under:-

"230. Supply to accused of copy of police report and other documents."

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:-

- (i) the police report;
- (ii) the first information report recorded under section 173:
- (iii) the statements recorded under sub-section (3) of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (7) of section 193;
- (iv) the confessions and statements, if any, recorded under section 183;
- (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (6) of section 193:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused and the victim (if represented by an advocate) with a copy thereof, may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through an advocate in Court:

Provided also that supply of documents in electronic form shall be considered as duly furnished.

- "531. (1) The Code of Criminal Procedure, 1973 (2 of 1974) is hereby repealed.
- (2)Notwithstanding such repeal -
 - (a) if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force:
 - (b) all notifications published, proclamations issued, powers conferred, forms provided by rules, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the said Code and which are in force immediately before the commencement of this Sanhita, shall be deemed, respectively, to have been published, issued, conferred, specified, defined, passed or made under the corresponding provisions of this Sanhita:

- (c) any sanction accorded or consent given under the said Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Sanhita and proceedings may be commenced under this Sanhita in pursuance of such sanction or consent.
- (3)Where the period specified for an application or other proceeding under the said Code had expired on or before the commencement of this Sanhita, nothing in this Sanhita shall be construed as enabling any such application to be made or proceeding to be commenced under this Sanhita by reason only of the fact that a longer period therefor is specified by this Sanhita or provisions are made in this Sanhita for the extension of time.
- **15.** The Hon'ble Supreme Court in the Judgment of **Waheed-ur-Rehman Parra's** (3rd Supra) held at Paras 20, 25 and 27 as follows:-
 - "20. On the aspect of a review power being exercised by the trial court, which was not within its jurisdiction, it was urged that the first direction to designate certain witnesses as protected witnesses was in the absence of the accused. That was a distinct nature of proceedings. Those proceedings could not take away the right of an accused to be supplied with witness statements as the objective was only to protect the witnesses and not to take out the whole statement out of the purview of Section 207 of the Cr.P.C. The second order dated 11.9.2021 was to fulfill the mandate of Section 207 of the Cr.P.C., subject to the precautions to be taken in that behalf.
 - 25. The occasion for the appellant/accused to come in and seek redacted statements under Section 207 of the Cr.P.C. arose when the trial was to commence and the appellant was of the view that in order to plead an appropriate defence there should be full disclosure minus the redacted portion so that the testimonies of those witnesses could be utilized without disclosing their identities or their place of residence. This is not, in our view, an exercise of the power of review

but the exercise of powers at two different stages of proceedings under two different provisions. The plea of the prosecution of this being a review power is, thus misplaced. There is no doubt that the power of review is not available with the trial court and the question was whether the exercise of the power by the trial court under the two separate provisions vide orders dated 01.06.2021 and 11.09.2021 can at all be said to be the power of review in the latter order. The answer to this is clearly in the negative.

- 27. Having said so, we also come to the order passed by the trial court on 11.09.2021 which has been cautiously worded. The order has not only permitted redaction of the address and particulars of the witnesses which could disclose their identities but has further observed as noted aforesaid that even other relevant paras in the statement which would disclose their occupation and identity could be redacted. Thus, a wide discretion has been given and that too for the Special Public Prosecutor to take a call. There could thus have hardly been a grievance raised by the prosecution in this regard."
- **16.** Similar view was taken by the Hon'ble Supreme Court in judgments referred to 1st and 2nd Supra.
- **17.** Learned Additional Solicitor General of India did not dispute the above legal matrix.
- 18. In the present case on hand, the Sessions Case was numbered as S.C.No.11 of 2023 and the new Act i.e., Bharatiya Nagarik Suraksha Sanhita, 2023, came into force on 01.07.2024, but the appellants in Criminal Appeal Nos.138 and 139 of 2025 filed discharge applications, under Section 227 Cr.P.C., after the new enactment came into force i.e., on 01-07-2024. Of course, both discharge applications were dismissed on 06.01.2025 and 31.12.2024 respectively. As per the provisions of Section 531(2) if any appeal, application, trial, inquiry or investigation was pending on the date of Bharatiya Nagarik

Suraksha Sanhita, 2023, came into force, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of Code of Criminal Procedure, 1973.

- **19.** As already pointed out, Bharatiya Nagarik Suraksha Sanhita, 2023, came into force on 01.07.2024, but the applications under Section 227 Code of Criminal Procedure were filed after Bharatiya Nagarik Suraksha Sanhita, 2023, came into force. On the same ground also, the learned Special Judge dismissed the applications as the applications were filed beyond 60 days as envisaged in Section 250 of Bharatiya Nagarik Suraksha Sanhita, 2023.
- 20. Be that as it may. We are not going into the merits and demerits of the case, in view of the peculiar facts and circumstances of the present case. Admittedly, as per the learned Senior Counsel for the appellants as well as the learned Additional Solicitor General of India, the statements of the protected witnesses were not supplied to the appellants as required under Section 230 Bharatiya Nagarik Suraksha Sanhita, 2023. Once the statements were not supplied to the accused as per the provisions of Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023, the further proceedings would be vitiated. Of course, in all these judgments referred supra, the Hon'ble Apex Court has categorically held that serious prejudice would be caused for nonsupply of the documents, as required under Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023, akin to Section 207 Cr.P.C. doubt, the accused were seriously prejudiced by non-supply of statements of protected witnesses to them. The learned Special Judge, while dismissing the discharge applications, referred to the statements of protected witnesses in his order. As such, in the considered view of this Court that the appellants have no opportunity to

look into the statements of the protected witnesses. Therefore, in the considered opinion of this Court that, all the appellants were prejudiced by non-supply of the statements of the protected witnesses, as required under Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023.

- 21. As already pointed out, so far as the Criminal Appeal Nos.110 and 169 of 2025 are concerned, the appellants directly filed the Appeals challenging the framing of charges without supplying the statements of protected witnesses, as required under Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023.
- 22. In view of the above analyses and in view of the above facts and circumstances, the charges framed by the learned Special Judge against appellants after dismissing the discharge applications *dehors* supplying the statements of the protected witnesses as contemplated under Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023, are liable to be set aside and all the matters are necessarily be remitted back to the learned Special Judge for NIA cases-cum-III Additional District and Sessions Judge, Visakhapatnam for commencement of the case from the stage of Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023.
- 23. Accordingly, all these Criminal Appeals are disposed of, at the stage of admission, setting aside the charges framed by the learned Special Judge against the appellants in Crl.A.Nos.110 and 169 of 2025 as well as the orders passed on 06.01.2025 and 31.12.2024 in Crl.M.P.No.1119 of 2024 and 301 of 2024 in S.C.No.11 of 2023 by the learned Special Judge, dismissing the discharge applications filed by appellants in Crl.A.Nos.138 and 139 of 2025 and the matters are remitted back to the learned Special Judge for NIA cases-cum-III

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Crl.A.No.110, 138, 139 and 169 of 2025

Additional District and Sessions Judge, Visakhapatnam, with a direction to supply the statements of the protected witnesses, to all the accused in Sessions Case No.11 of 2023, pending on its file without disclosing the identity particulars of the protected witnesses, preferably by the date of next hearing of Sessions Case. However, it is needless to state that the learned Special Judge is obliged to start the commencement of the case from the stage of Section 230 of Bharatiya Nagarik Suraksha Sanhita, 2023. The learned Special Judge is further directed to expedite the trial of the Sessions Case. The appellants are

Consequently, miscellaneous petitions, if any, pending shall stand closed.

also directed to cooperate with the trial court for speedy disposal of the

JUSTICE K.SURESH REDDY

JUSTICE V.SUJATHA

Dt. 03.07.2025

Sessions Case.

LR Copy to be marked: YES

SAB / TSNR

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THE HON'BLE SRI JUSTICE K.SURESH REDDY AND THE HON'BLE SMT JUSTICE SUJATHA

COMMON JUDGMENT

Criminal Appeal Nos.110, 138, 139 AND 169 of 2025

(per Hon'ble Sri Justice K.Suresh Reddy)

Date: 03.07.2025

LR Copy to be marked: YES

SAB / TSNR