

Baddi Srinivas vs The State Of Andhra Pradesh on 18 August, 2022

Author: Ninala Jayasurya

Bench: Ninala Jayasurya

IN THE HIGH COURT OF ANDHRA PRADESH:: AMARAVATI
THE HON'BLE SRI JUSTICE NINALA JAYASURYA
CRIMINAL PETITION No.6375 OF 2022

Between: -

1) Baddi Srinivas, S/o.Apparao,
aged about 23 years, D/o.1-79,
Pedaramabhadrapuram, Kothuru village,
Payakaraopet Mandal,
Visakhapatnam District.

2)Tavva Suresh Kumar,
S/o.Satyanarayana, aged about 30 years,
D.No.2-3-138, George Street,
Pithapuram, East Godavari District.

.... Petitioners/A.1 & A.2

And

1) State of Andhra Pradesh, represented
by its Public Prosecutor, High Court of
Andhra Pradesh, Amaravati.

.... 1st Respondent

2) K.Lakshmana Reddy

.... 2nd Respondent/de facto
Complainant

Counsel for the petitioners : Ms.Kotha Veera Naga Pallavi

Counsel for the 1st Respondent : The Assistant Public Prosecutor

Counsel for the 2nd Respondent : Nil

ORDER:

A Crime in F.I.R No.456 of 2022 has been registered in Bommuru Police Station, East Godavari District against the petitioners under Sections 270, 273 r/w 34 of I.P.C and Section 20(2) of Cigarettes and Other Tobacco Products Act (COTPA) on the ground that the petitioners were caught in possession of tobacco and tobacco products.

2. The cases are being booked against persons, who are found to be either storing or transporting tobacco and tobacco products in the State of Andhra Pradesh. Persons, who are facing such cases,

have been approaching this Court for relief.

3. In Crl.P.No.5421 of 2019 and batch dated 18.12.2019, a learned Single Judge of this Court had held that tobacco does not fall within the definitions of "food" and as such, registration of Crime under the Food Safety and Standards Act, 2006 is not permissible.

4. In W.P.No.3731 of 2018 and batch dated 27.08.2018, a learned Single Judge of this Court had held that the police would not have jurisdiction to initiate or investigate any offences punishable under the provisions of the Food Safety and Standards Act, 2006. A learned Single Judge had also held that transport or storage of tobacco and tobacco products would not constitute an offence punishable under Sections 270 to 273 of IPC.

5. In view of the aforesaid findings which are being consistently followed by this Court, this criminal petition is allowed quashing F.I.R No.456 of 2022 of Bommuru Police Station, East Godavari District with a direction to return the seized stock and Ashok Ley Land Dost Van bearing registration No.AP 39 Y 3176 involving in the present crime, to the petitioners.

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

_____ NINALA JAYASURYA, J Date: 18.08.2022 sj THE HON'BLE SRI
JUSTICE NINALA JAYASURYA CRIMINAL PETITION No.6375 OF 2022 Date: 18.08.2022 sj