

# Shaik Ayyub vs The State Of Telangana on 2 February, 2021

**Author: K. Lakshman**

**Bench: K. Lakshman**

HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.374 OF 2021

ORDER (ORAL) :

This application is filed under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the proceedings in C.C. No.176 of 2019 on the file of the learned Judicial Magistrate of First Class, Adilabad, arising out of Crime No.21 of 2018 of Adilabad II Town Police Station, Adilabad District, registered for the offences punishable under Section 20(2) read with Section 7(2) of Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (for short 'COTP Act'). The petitioner herein is sole accused in the above crime.

2. Heard both sides and perused the material on record.

3. The learned counsel for the petitioner as well as the learned Assistant Public Prosecutor appearing for the State would submit that subject matter is squarely covered by an order in Chidurala Shyamsubder v. State of Telangana<sup>1</sup> rendered by the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh, and placed a copy of the said judgment for perusal.

4. In Chidurala Shyamsubder (Supra 1), a learned single Judge of the High Court following the guidelines laid down by the Crl.P. No.3731 of 2018 & Batch dated 27.08.2018. Hon'ble Supreme Court in State of Haryana v. Bhajan Lal<sup>2</sup>, held that the police are incompetent to take cognizance of the offences punishable under Sections 54 and 59 (1) of the Food Safety and Standards Act, 2006 (for short 'FSS Act'), investigating into the offences along with other offences under the provisions of the Indian Penal Code, 1860, and filing charge sheet is a grave illegality, as the Food Safety Officer alone is competent to investigate and to file charge sheet following the Rules laid down under Sections 41 and 42 of FSS Act, whereas, in the present case, the police have registered the crime for the offences under Section 20(2) read with Section 7(2) of COTP Act. Therefore, the said proceedings in C.C. No.176 of 2019 on the file of the learned Judicial Magistrate of First Class, Adilabad, against the petitioner herein is contrary to the principle held in Chidurala Shyamsubder (Supra 1), as such, the same are liable to be quashed.

5. In view of the above, the present Criminal Petition is allowed in terms of the order in Chidurala Shyamsubder (Supra 1) and the proceedings in C.C. No.176 of 2019 on the file of the learned Judicial Magistrate of First Class, Adilabad, are hereby quashed against the petitioner herein - sole accused.

6. Further, since the proceedings in the aforesaid case are quashed against the petitioners herein in C.C. No.176 of 2019 on the file of the learned Judicial Magistrate of First Class, Adilabad, the 1992 Supp. (1) SCC 335 petitioner is at liberty to file appropriate application for return of the seized property including the seized vehicles, if any, and the learned Magistrate shall consider the same and return the seized property and vehicles on proper identification and verification of their ownership under due acknowledgment.

As a sequel thereto, miscellaneous petitions, if any, pending in the criminal petition, stand closed.

\_\_\_\_\_ K. LAKSHMAN, J February 2, 2021.

NOTE:

Registry is directed to annex a copy of the common order dated 27.08.2018 in Criminal Petition No.3731 of 2018 & batch.

(BO) PV