

Vasadhi Tripathi Rao Alias Tirupati Rao vs The State Of Andhra Pradesh on 15 February, 2024

IN THE HIGH COURT OF ANDHRA PRADESH
:: AMARAVATI
(Special Original Jurisdiction)

3396

THURSDAY ,THE FIFTEENTH DAY OF
FEBRUARY

APHC010362362020

TWO THOUSAND AND TWENTY FOUR
PRESENT

THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 5851 OF 2020

Between:

1. VASADHI TRIPATHI RAO ALIAS TIRUPATI RAO, S/o.Prakash Rao, Proprietor Sri Jagannadh Enterprises. Eluru, West Godavari Dist.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, rep. by its public Prosecutor, High court of Andhra Pradesh, Amaravathi.

...RESPONDENT/COMPLAINANTS

Petition under Section 437/438/439/482 of Cr.P.C praying that in the circumstance stated in the Memorandum of Grounds of Criminal Petition, the High Court TO QUASH THE IMPUGNED PROCEEDINGS IN CC NO.332/2019 ON THE FILE OF JFCM KANIGIRI PRAKASHAM DISTRICT A S AGAINST THE PETITIONER/A6.

I.A. NO: 2 OF 2020

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the High Court may be pleased TO STAY OF ALL FURTHER PROCEEDINGS IN THE IMPUGNED PROCEEDINGS IN CC NO.332/2019 ON THE FILE OF JFCM KANIGIRI PRAKASHAM DISTRICT A S AGAINST THE PETITIONER/A6.

I.A. NO: 1 OF 2020

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the High Court may be pleased O DISPENSE WITH THE FILING OF THE CERTIFIED COPY OF THE IMPUGNED PROCEEDINGS IN CC NO.332/2019 ON THE FILE OF JFCM KANIGIRI PRAKASHAM DISTRICT A S AGAINST THE PETITIONER/A6.

This Petition coming on for hearing,upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri R SIVA SAI SWARUP ,Advocate

for the Petitioner and the Public Prosecutor (TG/AP) on behalf of the Respondent No. and of Sri_Advocate for the Respondent No.

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The Court made the following:

ORDER:

The instant petition under Section 482 of the Code of Criminal Procedure, 1973 (in short "Cr.P.C.") has been filed, by the petitioner/Accused No.6, seeking quashment of the proceedings against him in C.C.No.332 of 2019 on the file of the Court of Judicial Magistrate of First Class, Kanigiri, Prakasam District registered for the offence under Sections 120-B, 353, 273, 420 read with 34 of Indian Penal Code, Sections 59 and 63 of Food Safety and Standards Act, 2006 and Section 8(c) read with 20(b) of Narcotic Drugs and Psychotropic Substances Act.

2. Heard Sri R.Siva Sai Swarup, learned counsel for the petitioner and Ms.D. Prasanna Lakshmi, learned Assistant Public Prosecutor for the State.

3. It is submitted by the learned counsel for the petitioner and acceded to, by the learned Assistant Public Prosecutor that the subject matter of this Criminal Petition is squarely covered by the common order passed by this Court in Criminal Petition Nos.5421 of 2019 and batch, dated 18.12.2019, wherein this Court held as follows.

"But as far as the present cases are concerned, this Court by exercising the power under section 482 Cr.P.C and following the mandate of the Hon'ble Supreme Court of India in State of Haryana v. Bhajan lal and the judgment of the High Court of Allahabad in M/s.Pepsico India Holdings(Pvt) Ltd., and Another (4 supra), is constrained to hold that all the FIRs/cases that have been registered under the provisions of the IPC, FSS Act and the COTPA Act are quashed, leaving it open to them, if they so desire to pursue the prosecution in respect of the offences under the other enactments, if any. The offences under the NDPS Act can be pursued. The offences under the COTPA Act, can only be launched if the police find that the sections 5, 6 7 and 10 are not complied with. Except on these very limited grounds genuine/legitimate traders cannot be prosecuted.

It is hoped that copies of the orders passed by the learned single Judge in Crl.P.No.3731 of 2018 and batch and this order are widely circulated by the Director General of Police and the Chief Secretary of the State of Andhra Pradesh through out the state of Andhra Pradesh so that the time and effort of the police are devoted to more serious crimes. Whatever be the impact of tobacco products on the health of an individual or the nation; till the law is amended/modified it has to be followed. As held by many Courts earlier; it may be hard, but it is the law.

With the above observations, the criminal petitions are allowed."

4. Hence, following the said Orders passed by this Court in Criminal Petition Nos.5421 of 2019 and batch, dated 18.12.2019, and taking into consideration of the facts and circumstances of the case, this criminal petition is partly allowed by quashing the proceedings against the Petitioner/Accused No.6 in C.C.No.332 of 2019 on the file of the Court of Judicial Magistrate of First Class, Kanigiri, Prakasam District for the offences under Sections 120-B, 353, 273, 420 read with 34 of Indian Penal Code and Sections 59 and 63 of Food Safety and Standards Act, 2006. The offence under Section 8(c) read with 20(b) of NDPS Act can be pursued.

Pending applications, if any, shall stand closed.

JUSTICE VENKATA JYOTHIRMAI
PRATAPA Dinesh HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA Dt.15.02.2024
Dinesh