

Shaik Ishank vs The State Of Andhra Pradesh on 20 December, 2022

Author: R. Raghunandan Rao

Bench: R. Raghunandan Rao

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

CRIMINAL PETITION No.10166 of 2022

ORDER:

A crime in P.R.C. No.3 of 2021, on the file of the Judicial Magistrate of First Class, Nandyal, against the petitioners under Sections 188, 273 and 328 of Indian Penal Code and Section 59 (1) of Food Safety and Standards Act, 2006 on the ground that the petitioners were caught storing tobacco and tobacco products.

2. The cases are being booked against persons, who are found to be either storing or transporting tobacco or tobacco products in the State of Andhra Pradesh. Persons, who are facing such cases, have been approaching this Court for relief.

3. In CrI.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 the police would not have jurisdiction to initiate or investigate any offences punishable under the provision 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 for an offence punishable under Sections 270 to 273 of Indian Penal Code.

5. In view of the aforesaid findings which are being consistently followed by this Court, this Criminal Petition is allowed quashing the P.R.C. No.3 of 2021, on the file of the Judicial Magistrate of First Class, Nandyal, against the petitioners with a direction to return the seized tobacco and tobacco products.

Miscellaneous petitions, pending if any, in this Criminal Petition shall stand closed.

R. RAGHUNANDAN RAO, J 20.12.2022 MJA HON'BLE
SRI JUSTICE R. RAGHUNANDAN RAO CRIMINAL PETITION No.10166 of 2022 20.12.2022 MJA