

# **Sri Bhogi Nagabhushanrao vs The State Of Andhra Pradesh on 12 December, 2022**

**Author: R. Raghunandan Rao**

**Bench: R. Raghunandan Rao**

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

CRIMINAL PETITION No.9877 of 2022

ORDER:

A crime in C.C.No.389 of 2021 on the file of Judicial Magistrate of First Class, Amadalavalasa, Srikakulam District against the petitioners under Sections 188, 272 and 273 read with 34 of Indian Penal Code and Section 20(2), 22(B) of COTP Act, 2003 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.1440 of 2020 and batch dated 06.01.2022, 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 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 C.C.No.389 of 2021 on the file of Judicial Magistrate of First Class, Amadalavalasa, Srikakulam District 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.

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R. RAGHUNANDAN RAO, J 12.12.2022 NPR HON'BLE  
SRI JUSTICE R. RAGHUNANDAN RAO CRIMINAL PETITION No.9877 of 2022 12.12.2022 NPR