

Tadepalli Ramakrishna, vs The State Of Andhra Pradesh, on 19 July, 2021

THE HON'BLE SMT.JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No.3983 of 2021

ORDER:

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This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short „Cr.P.C.) to quash the proceedings in F.I.R. No.187 of 2021 on the file of Tenali I Town Police Station, Guntur District registered for the offences punishable under Sections 188, 272, 273, 420 of the Indian Penal Code, 1860 (for short "IPC") and Section 56, 57 (1), 63 of the Food Safety and Standards Act, 2006 (for short „FSS Act).

2. The case of the prosecution is that on 09.06.2021 on receipt of credible information, the Station House Officer, I Town Police Station, Tenali along with staff went to the house of petitioner at Koradavari Street, Tenali Town and on seeing the police, when the petitioner tried to escape, they caught hold of him and he confessed that he is keeping tobacco products in the house and selling them in Kirana Shop. Police seized the same under the cover of panchanama. Basing on the same, the above crime was registered.

3. Heard Sri Raja Reddy Koneti, learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State.

4. Learned counsel for the petitioner submits that Sections 272 and 273 of IPC and Section 56, 57 (1), 63) of FSS Act relate to food safety standards. Section 273 of IPC speaks about sale of Noxious Food or Drink. He further submits that possession, sale, purchase and transport of banned gutka and tobacco products will not attract the offences as alleged as they do not fall under the definition of food and also do not spread any disease. Moreover, the police have no power to register the offences under above sections except the designated officers like Food Safety Officer. Further, Section 188 of IPC would apply when there is disobedience of an order duly promulgated by a public servant. As such even Section 188 of IPC is not applicable to the present case.

5. Learned Counsel for the petitioner submits that in similar circumstances, this Court passed orders in Criminal Petition No.3731 of 2018 and batch, allowing several criminal petitions by quashing respective F.I.Rs. Hence, he prays to allow this petition.

6. Learned Public Prosecutor has not disputed the fact that in similar circumstances several F.I.Rs were quashed by this Court.

7. In the light of the above, this criminal petition is allowed and the proceedings in F.I.R. No.187 of 2021 on the file of Tenali I Town Police Station, Guntur District, are hereby quashed. Consequently, the Station House Officer, Tenali I Town Police Station is directed to release the seized tobacco products in the above crime to the petitioner.

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

JUSTICE LALITHA KANNEGANTI 19th July, 2021
PVD THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI (Allowed) CRIMINAL PETITION
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