

# Kanta Prathap, vs The State Of Andhra Pradesh, on 24 March, 2021

**Author: R.Raghunandan Rao**

**Bench: R.Raghunandan Rao**

THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO

CRIMINAL PETITION No.1834 OF 2021

ORDER:

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A Crime in F.I.R No.128 of 2021 has been registered in Buchireddypalem Police Station, SPSR Nellore District against the petitioner under Sections 272, 273, 328 of I.P.C and Sections 22, 23 r/w 5 (i) of Cigarettes and Other Tobacco Products (COTPA) Act on the ground that the petitioner was caught in possession of tobacco and tobacco products.

2. The cases are being booked against persons, who are found to be either storing or transporting tobacco and 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 that the police would not have jurisdiction to initiate or investigate any offences punishable under the provisions 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 IPC.

5. In view of the aforesaid findings which are being consistently followed by this Court, this criminal petition is allowed quashing F.I.R No.128 of 2021 of Buchireddypalem Police Station, SPSR Nellore District with a direction to return the seized tobacco and tobacco products to the petitioner.

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

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JUSTICE R.RAGHUNANDAN RAO Date :  
24-03-2021 RJS THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO CRIMINAL PETITION  
No.1834 OF 2021 Date : 24-03-2021 RJS