

Borigorla Laxmaiah vs The State Of Andhra Pradesh on 13 December, 2022

Author: R. Raghunandan Rao

Bench: R. Raghunandan Rao

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

Crl.P.No.8412 of 2022

ORDER:

The petitioner is accused in C.C.No.4797 of 2020 on the file of the Chief Metropolitan Magistrate, Vijayawada, for the offences punishable under Sections 270, 273 IPC and Section 5 read with Section 22 of Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (for short COTPA Act) on the ground that the petitioner was caught storing tobacco and tobacco products.

2. The cases are being booked against the 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 Crl.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 definition 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 into any offences punishable under the provisions of the Food Safety and Standards Act, 2006. The 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 IPC.

5. In view of the aforesaid findings, which are being consistently followed by this Court, this Criminal Petition is allowed quashing C.C.No.4797 of 2020 on the file of the Chief Metropolitan Magistrate, Vijayawada, against the petitioner, with a direction to return the seized tobacco and tobacco products.

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

R. RAGHUNANDAN RAO, J.

13th December, 2022.

Js.

3 RRR,J HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO 13th December, 2022 Js.