

Nattuva Hari Prasad Nattuva Bujji vs The Station House Officer on 30 November, 2022

Author: R. Raghunandan Rao

Bench: R. Raghunandan Rao

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

Crl.P.No.9570 of 2022

ORDER:

The petitioners are accused in Crime No.156 of 2022 of Macherla Town Police Station, for the offence punishable under Sections 188, 270, 273, read with Section 34 IPC and Sections 20(2), &(2) 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 Crime No.156 of 2022 of Macherla Town Police Station 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.

30th November, 2022.

Js.

3 RRR,J HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO 30th November, 2022 Js.