

Nukala Manohar Rao Nukala Manohar, vs The State Of Andhra Pradesh on 28 June, 2021

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVAT.

MONDAY, THE TWENTY EIGHTH DAY OF JUNE

TWO THOUSAND AND TWENTY ONE >

-PRESENT:

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO: 3401 OF 2021

Between:

Nukala Manohar Rao @ Nukala Manohar, S/o. Krishnamurthy, Age 35
years, Occ. Business, R/o H.No.3/128, RTC Bus Stand Road, Koilakuntla
Town, Kurnool, Kurnool District.

...Petitioner/Accused

AND

The State of Andhra Pradesh, Rep. by the Public Prosecutor, High Court of
Andhra Pradesh at Amaravathi.

. Respondent

Petition under Section 482 of Cr.P.C, praying that in the circumstances
stated in the memorandum of grounds filed in Criminal Petition, the High Court
may be pleased to quash the proceedings against the petitioner/accused in
C.C.No.783/2019 on the file of Judicial Magistrate of First Class, Allagadda,
Kurnool District which arose out of Crime No.180/2019 of Allagadda Rural Police
Station, Kurnool District.

IA. NO: 2 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances
stated in the memorandum of grounds filed in Criminal Petition, the High Court
may be pleased to Stay of all further proceedings against the petitioner/accused
in C.C. No. 783/2019 on the file of Judicial Magistrate of First Class, Allagadda,
Kurnool District which arose out of Crime No.180/2019 of Allagadda Rural Police
Station, Kurnool District, pending disposal of CRLP 3401 of 2021, on the file of
the High Court.

The petition coming on for hearing, upon perusing the Petition and the
memorandum of grounds filed in support thereof and upon hearing the
arguments of Sri D Purnachandra Reddy, Advocate for the Petitioner and Asst.
Public Prosecutor for the Respondent, the Court made the following;

ORDER:

S37.

ma Paget THE HON'BLE SMT.JUSTICE LALITHA KANNEGANTI CRIMINAL PETITION No.3401
of 2021 ORDER:-

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 C.C.No.783 of 2019 on the file of Judicial Magistrate of First Class, Allagadda, Kurnool District in connection with Crime No.180 of 2019 on the file of Allagadda Rural Police Station, Kurnool District registered for the offences punishable under Sections 188 and 273 of the Indian Penal Code, 1860 (for short "IPC") and Section 58, 59 (i) of the Food Safety and Standards Act, 2006 (for short 'FSS Act'). The petitioner herein is accused in the above case.

2. The case of the prosecution is that on 24.07.2019 at 2.00 p.m. on receipt of credible information, the Sub Inspector of Police, Allagadda Rural Police Station along with panchayatdars went to G.Jambuladinne village and found one person was carrying a bag and on enquiry, he disclosed his identity as that of the petitioner herein. On verifying the bag, they found various tobacco products worth Rs.1,500/- and the police seized the bag. Basing on the same, the above crime was registered.

3. Heard Sri D.Purna Chandra Reddy, learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State.

4. Learned counsel for the petitioner submits that Sections 273 of IPC and Sections 58, 59 (i) 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. ~

3. 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.LRs. Hence, he prays to allow this petition.

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

7. In the light of the above, this criminal petition is allowed and the proceedings in C.C.No.783 of 2019 on the file of Judicial Magistrate of First Class, Allagadda, Kurnool District in connection with Crime No.180 of 2019 on the file of Allagadda Rural Police Station, Kurnool District, are hereby quashed. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

i \ : Reddy Sd/-M.Suryanadha Re ASSISTANT REGISTRAR ' ay a TRUE COPYI/ HON OEEICER Fi SECTION' nc TRAR The Judicial Magistrate of First Class, Allagadda, Kurnool District. The Station House Officer, Alagadda Rural Police Station, Kurnooi District. One CC to Sri. D Purnachandra Reddy, Advocate [OPUC] Two CCs to Public Prosecutor, High Court of AP [OUT] One spare copy.

HIGH COURT LK,J DATED: 28/07/2021 ORDER ALLOWED