

Shaik Rahamthulla vs The State Of Andhra Pradesh on 21 June, 2022

Author: Ninala Jayasurya

Bench: Ninala Jayasurya

HON'BLE SRI JUSTICE NINALA JAYASURYA

CRIMINAL PETITION No.4187 OF 2022

Between: -

Shaik Rahamthulla, S/o.Hussainisha

... Petitioner

and

The State of Andhra Pradesh represented by
Sub-Inspector of Police, Panyam Police Station,
Represented by Public Prosecutor,
High Court of Andhra Pradesh, Amaravathi.

... Respondents

Counsel for the petitioner : Mr.V.Nitesh

Counsel for the respondent : The Public Prosecutor

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1972 seeking to quash the proceedings against the petitioner in Sessions Case No.208 of 2020 on the file of the Court of Principal Senior Civil Judge, Nandyal.

2. Heard Mr.V.Nitesh, learned counsel for the petitioner and learned Additional Public Prosecutor representing the respondent.

3. The petitioner is the sole accused in Crime No.9 of 2019 on the file of the Panyam Police Station registered for the offences under Sections 188, 273, 328 of the Indian Penal Code, 1860 (IPC) and Section 59(1) of the Food Safety and Standards Act, 2006 (FSS Act). After completion of the investigation, the Police laid charge sheet against the petitioner vide PRC No.33 of 2019 on the file of the Court of Judicial First Class Magistrate, Nandyal. It was made over to the Court of Session and is pending as S.C. No.280 of 2020 on the file of the Court of Principal Assistant Sessions Judge, Nandyal.

4. The allegations against the petitioner in brief are that on 17.1.2019, the Sub Inspector of Police, Panyam Police Station while conducting vehicles check, at about 17.00 hours noticed one motor

cycle coming from Kurnool with a plastic bag and on seeing the Police, the motor cyclist tried to skulk away by leaving the motor cycle there itself. He was chased and detained with the help of the staff and he disclosed his identity by confession that he is transporting banned tobacco items. The said products were seized and the petitioner was arrested and remanded to judicial custody in the above crime.

5. The learned counsel for the petitioner while denying the allegations made in the F.I.R., inter alia submits that the seized tobacco products would not fall within the definition of Section 3(j) of FSS Act and therefore the Police ought not to have registered the crime, investigated into and file the charge sheet and the very registration of F.I.R., itself is contrary to the provisions of law. While placing reliance on the decision of this Court in Criminal Petition No.3731 of 2018 and batch, dated 27.8.2018, learned counsel would further submit that the matter is squarely covered by the said decision and the present Criminal Petition deserves to be allowed by quashing the proceedings against the petitioner.

6. The learned Additional Public Prosecutor fairly submits that the matter is covered by the common order passed in Criminal Petition No.3731 of 2018 and batch, dated 27.8.2018.

7. This Court has considered the submissions made by the learned counsel for both sides. A reading of the copy of the F.I.R., filed along with the material papers would clearly show that the Police have suo motu registered the Crime against the petitioner in this case. It may be appropriate to mention that in Criminal Petition No.5169 of 2019, dated 16.9.2019, a learned Judge while considering the offences registered against the petitioner therein, in similar circumstances, inter alia held that so far as the offence under Section 188 IPC is concerned, as per Section 195(1)(a)(i) of Cr.P.C., no Court shall take cognizance of the said offence except on the complaint in writing of that Court or by such Officer of the Court as that Court may authorize in writing in this behalf, or of some other Court to which that Court is subordinate. Making the said observation, the learned Judge quashed the offence registered under Section 188 IPC as it was in violation of Section 195 of Cr.P.C.

8. Be that as it may. Since the present case is squarely covered by the decision in Criminal Petition No.3731 of 2018 and batch dated 27.8.2018, for the reasons alike, the Criminal Petition is allowed, quashing the proceedings against the petitioner in S.C. No.208 of 2020 pending on the file of the Court of Principal Assistant Sessions Judge, Nandyal. No costs. Miscellaneous applications, pending if any, shall stand closed.

NINALA JAYASURYA, J June 21, 2022.

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