

Kummari Vijay Kumar vs The State Of Telangana on 9 February, 2021

Author: K. Lakshman

Bench: K. Lakshman

HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.606 OF 2021

ORDER (ORAL) :

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner - accused No.1 seeking to quash the proceedings against him in Crime No.176 of 2020 pending on the file of the Station House Officer, Jogipet Police Station, Sanga Reddy District. The offences alleged against the petitioner are under Section 420 of the Indian Penal Code, 1860, and Section 7 of the Essential Commodities Act, 1955.

2. Heard learned counsel for the petitioner and learned Assistant Public Prosecutor for the State. Perused the record.

3. Learned counsel for the petitioner as well as the learned Assistant Public Prosecutor would submit that the subject matter is squarely covered by a common order in Chidurala Shyamsubder v. State of Telangana¹ rendered by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, and placed a copy of the said judgment for perusal.

4. In Chidurala Shyamsubder's case (Supra), a learned Single Judge, following the guidelines laid down by the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal², held that the Police are incompetent to take cognizance of the offences punishable CrI.P.No.3731 of 2018 & batch, decided on 27.08.2018 1992 Supp. (1) SCC 335 2 under Sections 45 and 59(1) of the Food Safety and Standards Act, 2006 (for short 'FSS Act'), as such, investigating into the said offences along with other offences under the provisions of the Indian Penal Code, 1860, and filing charge sheet is grave illegality, as the Food Officer alone is competent to investigate into and to file charge sheet following the Rules laid down under Sections 41 and 42 of FSS Act. In the present case, the Police have registered the crime for the offences under Section 420 of IPC and Section 7 of EC Act. Therefore, the proceedings in Crime No.176 of 2020 against the petitioner herein are contrary to the principle laid down in Chidurala Shyamsubder's case (Supra 1), as such, the same are liable to be quashed.

5. In view of the above, the present Criminal Petition is allowed in terms of the judgment in Chidurala Shyamsubder's case (Supra 1) and accordingly the proceedings in Crime No.176 of 2020 pending on the file of the Station House Officer, Jogipet Police Station, Sanga Reddy District, are hereby quashed against the petitioner herein - accused No.1.

6. It is submitted by the learned counsel for the petitioner that the seized property is in the custody of Police, Jogipet Police Station and sought direction to the Station House Officer, Jogipet Police Station, Sanga Reddy District, to return the seized property to the petitioner.

7. Since the proceedings in Crime No.176 of 2020 are quashed against the petitioner herein - accused No.1, the Station House Officer, Jogipet Police Station, Sanga Reddy District, is directed to return the seized property i.e., 300 quintals (700 bags) of rice along with the crime vehicle TATA Lorry bearing No.GJ 03 BW 9477 to the petitioner on verifying the documents with regard to ownership of the said property and vehicle.

As a sequel thereto, miscellaneous petitions, if any, pending in this criminal petition stand closed.

_____ K. LAKSHMAN, J February 9, 2021.

NOTE:

Registry is directed to annex a copy of the common order dated 27.08.2018 in Crl.P. No.3731 of 2018 & batch along with this order.

(BO) PV