

## Nukala Manohar Rao Alias Nookala ... vs The State Of Andhra Pradesh, on 28 June, 2021

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"yf IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

MONDAY, THE TWENTY EIGHTH DAY OF JUNE \_

TWO THOUSAND AND TWENTY ONE °

: PRESENT:

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO: 3398 OF 2021 .

Between:

Nukala Manohar Rao @ Nookala Manohar Rao, 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 No.2

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 grounds filed in support of the Criminal Petition, the High Court may be pleased to  
quash the proceedings against the petitioner/accused no. 2 in C.C.No.226/2019 on the  
file of Judicial Magistrate of First Class, Kollakuntla, Kurnool District which arose out of  
crime number 73/2019 of Koilakuntla Police Station, Kurnool District

The petition coming on for hearing, upon perusing the Petition and the grounds  
filed in support thereof and upon hearing the arguments of SRI D PURNACHANDRA  
REDDY Advocate for the Petitioner, and of PUBLIC PROSECUTOR for the  
Respondent, the Court made the following.

ORDER:

THE HON'BLE SMT.JUSTICE LALITHA KANNEGANTI CRIMINAL PETITION No.3398 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.226 of 2019 on the file  
of Judicial Magistrate of First Class, Koilakuntla, Kurnool District in connection with  
Crime No.73 of 2019 on the file of Koilakuntla 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 A-2 in the above case.

2. The case of the prosecution is that on 11.05.2019 at 5.15 p.m. on receipt of credible information, the Sub Inspector of Police, Koilakuntla Police Station along with panchayatdars went to SBI Road at Koilakuntla and found one person with 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.5,000/- 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 petitioners 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 To, ae ON > 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. 2 Learned Counsel for the petitioners 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.I.Rs. Hence, he prays to allow this petition. 6, Learned Public Prosecutor has not disputed the fact that in similar circumstances several F.I.Rs were quashed by this Court.

7. In the light of the above, this criminal petition is allowed and the proceedings in C.C.No.226 of 2019 on the file of Judicial Magistrate of First Class, Kollakuntla, Kurnool District in connection with Crime No.73 of 2019 on the file of Koilakuntla Police Station, Kurnool! District, are hereby quashed. AS a sequel, pending miscellaneous petitions, if any, shall Stand closed.

SD/- U.Sri Devi as ASSISTANT REGISTRAR a ee ee PRR E For ilakuntla, Kurnool District .

icial Magistrate of First Class, Koila . ( . The Station House Officer, Koilakuntla Police Station, SOPUC) One CC to SRI D PURNACHANDRA REDDY Advocate SUT Two CCs to PUBLIC PROSECUTOR, High Court of AP { One spare copy HIGH COURT LKJ >28/06/2021 DATED ORDER ALLOWED