

Nunna Venkata Suryanarayana Murthy, vs The State Of Andhra Pradesh, on 6 May, 2021

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

Crl.P.No.2819 of 2021

ORDER :

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

Learned counsel for the petitioner points out that Tobacco products are not covered as food items and that number of judges of this Court have passed orders holding that Tobacco products cannot be classified as food and cases cannot be registered under the IPC and the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA ACT). He relies upon the order passed in Crl.P.No.2408 of 2020, in which, the Hon'ble the Chief Justice while sitting as a single judge considered the matter and quashed an FIR registered under 272, 273, 328 IPC and Food Safety and Standards Act, 2006. Similar orders have also been passed by the other Coordinate Benches.

Learned Public Prosecutor also acknowledges the fact that there are number of orders which have been passed. But, he opposes the grant of an order stating that the matter is receiving the consideration of the Government.

In view of the fact that Tobacco products per se are not food items and case under Section 269 and other sections of IPC are not maintainable, this Court is of the opinion that the petitioner is entitled to an order as prayed for. The FIR is, therefore, quashed. Consequent to the quashing of FIR the seized products are directed to be returned to the petitioner.

With the above direction, this criminal petition is allowed. As a sequel thereto, miscellaneous petitions, if any, pending in the criminal petition stand closed.

D.V.S.S.SOMAYAJULU, J Date : 06.05.2021 GR HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU Dated: 06.05.2021 GR