

# **Mohammad Samiullah Khan vs The State Of Telangana on 19 March, 2021**

**Author: K. Lakshman**

**Bench: K. Lakshman**

HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.2129 OF 2021

ORDER (ORAL) :

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners - accused Nos.1 to 3 seeking to quash the proceedings against them in Crime No.23 of 2021 pending on the file of the Station House Officer, Mamda Police Station, Nirmal District. The offences alleged against the petitioners are under Sections 270 and 273 read with Section 34 of the Indian Penal Code, 1860.

2. Heard Sri Gajanand Chakravarthy, learned counsel for the petitioners, and learned Assistant Public Prosecutor for the State. Perused the record.

3. The learned counsel for the petitioners as well as the learned Assistant Public Prosecutor would submit that the subject matter is squarely covered by the common order in Chidurala Shyamsubder v. State of Telangana<sup>1</sup> 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. Crl.P.No.3731 of 2018 & batch, decided on 27.08.2018

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 Lal<sup>2</sup>, held that the Police are incompetent to take cognizance of the offences punishable 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 a 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 Sections 270 and 273 read with Section 34 of the Indian Penal Code, 1860. Therefore, the proceedings in Crime No.23 of 2021 against the petitioners 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.23 of 2021 pending on the file of the Station House Officer, Mamda Police Station, Nirmal District. are hereby

quashed against the petitioners herein - accused Nos.1 to 3 alone.

1992 Supp. (1) SCC 335 As a sequel thereto, miscellaneous petitions, if any, pending in this criminal petition stand closed.

\_\_\_\_\_ K. LAKSHMAN, J March 19, 2021.

NOTE:

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