

Onterumallikarjuna vs The State Of Andhra Pradesh on 22 March, 2022

Author: D.Ramesh

Bench: D.Ramesh

THE HONOURABLE SRI JUSTICE D.RAMESH
CRIMINAL PETITION No.6085 of 2019

O R D E R:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 seeking to quash the proceedings against the petitioners/A1 to A3 in P.R.C.No.53 of 2019 on the file of the Junior Civil Judge cum First Additional Judicial Magistrate of First Class, Badvel for the offences punishable under sections 9(1) of A.P. Gaming Act (Cricket betting), Sections 188, 272, 273, 328 of IPC and Sections 57, 58 read with 26, 30 of Food Safety Standards Act-2006 [for short FSS Act].

2. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor appearing for the State.

3. Learned counsel for the petitioners while denying the allegations made in the charge sheet, primarily assails the validity of the criminal prosecution launched against the petitioners under Section 188 IPC, on the ground that the bar engrafted under Section 195 Cr.P.C. clearly attracts to the present facts of the case, as there is no such complaint filed by the concerned authority, who had issued the initial order, said to be violated, or a person, who is administratively superior to the officer who issued the order. He further submits that even the allegations made in the FIR and charge sheet does not bring out the commission of any other offences alleged under sections 9(1) of A.P. Gaming Act, Section 272, 273, 328 of IPC and Section 57, 58 read with 26, 30 of FSS Act, 2006, since the tobacco products would not fall within the definition of Section 3(j) of FSS Act. In the similar circumstances, earlier this court in Criminal Petition Nos.5146 of 2019 and 3731 of 2018 and batch quashed the F.I.Rs registered for the similar offences punishable under Indian Penal Code and FSS Act.

4. Learned Additional Public Prosecutor fairly concedes that except the offences under Gaming Act, other offences were covered in the earlier orders of this Court, thereby prayed to pass appropriate order in this Criminal Petition.

5. Therefore, in view of the fact that this matter is squarely covered by the earlier orders passed by this Court and in view of the legal position discussed therein, this Criminal Petition is partly allowed, quashing the proceedings against the petitioners in P.R.C.No.53 of 2019 on the file of the Junior Civil Judge cum First Additional Judicial Magistrate of First Class, Badvel for the offences punishable under Section 188, 272, 273, 328 of IPC and Sections 57, 58 read with 26, 30 of FSS Act. However, the proceedings against the petitioners for the offences punishable under Gaming Act

shall go on.

As a sequel, the miscellaneous applications pending, if any, shall stand closed.

_____ JUSTICE D.RAMESH Date: 22.03.2022 Pnr