

Parasamal Prajapathi vs The State Of Andhra Pradesh on 6 May, 2022

Author: D.Ramesh

Bench: D.Ramesh

THE HONOURABLE SRI JUSTICE D.RAMESH

CRIMINAL PETITION No.3633 OF 2022

ORDER:

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This criminal petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed seeking to quash the Crime No.370 of 2021, of Santhapeta Police Station, SPSR Nellore District. The offences alleged are 272, 273 IPC and under Section 22, 23 read with 5 (1) of Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (for short "COTPA Act").

2. Heard learned counsel for the petitioner/s and the learned Assistant Public Prosecutor for the respondent- State.

3. The cases are being booked against persons, who are found to be either storing or transporting tobacco and tobacco products in the State of Andhra Pradesh. Persons, who are facing such cases, have been approaching this Court for relief.

3. In CrI.P.No.5421 of 2019 and batch dated 18.12.2019, a learned Single Judge of this Court had held that tobacco does not fall within the definitions of "food" and as such, registration of Crime under the Food Safety and Standards Act, 2006 is not permissible.

4. In W.P.No.3731 of 2018 and batch dated 27.08.2018, a learned Single Judge of this Court had held that the police would not have jurisdiction to initiate or investigate any offences punishable under the provisions of the Food Safety and Standards Act, 2006. A learned Single Judge had also held that transport or storage of tobacco and tobacco products would not constitute an offence punishable under Sections 270 to 273 of IPC.

5. In view of the aforesaid findings which are being consistently followed by this Court, this criminal petition is allowed quashing F.I.R No.370 of 2021 of Santhapeta Police Station, SPSR Nellore District with a direction to return the seized tobacco and tobacco products to the petitioner Miscellaneous Petitions, if any pending, in this Criminal Petition, shall stand closed.

JUSTICE D.RAMESH Date:06.05.2022 Pnr THE HONOURABLE
SRI JUSTICE D.RAMESH CRIMINAL PETITION No.3633 OF 2022 Date : 06-05-2022 Pnr