

# Chakilam Bhaskar vs The State Of Telangana on 9 February, 2021

**Author: K. Lakshman**

**Bench: K. Lakshman**

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.638 OF 2021

ORDER (ORAL) :

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), seeking to quash the proceedings in Crime No.19 of 2021 pending on the file of the Station House Officer, Nizamabad Rural Police Station, Nizamabad District. The petitioner herein is sole accused in the above said crime. The offences alleged against the petitioner are under Sections 272, 273, 328 of the Indian Penal Code, 1860 (for short 'IPC'), and Section 20(2) of The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (for short 'COTP Act').

2. Heard learned counsel for the petitioner and learned Assistant Public Prosecutor appearing for the State. Perused the record.

3. The learned counsel for the petitioner as well as the learned Assistant Public Prosecutor would submit that the subject matter is squarely covered by a common order dated 27.08.2018 passed by the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh in Criminal Petition No.3731 of 2018 and batch, and placed a copy of the said judgment for perusal.

4. Perused the common order dated 27.08.2018 in Criminal Petition No.3731 of 2018 and batch, wherein a learned single Judge of the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh following the guidelines laid down by the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal<sup>1</sup>, held that the police are incompetent to take cognizance of the offences punishable under Sections 54 and 59 (1) of the Food Safety and Standards Act, 2006 (for short 'FSS Act') and investigating into the said offences along with other offences under the provisions of IPC and filing charge sheet is a grave illegality, as the Food Safety 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.

5. In the present case, the police have registered the crime for the offences under Sections 272, 273, 328 of IPC read with Section 20(2) of COTP Act. Therefore, the said proceedings in Crime No.19 of 2021 against the petitioner herein are contrary to the principle laid down by the Hon'ble Supreme Court in the above decision, as such, the same are liable to be quashed.

6. Therefore, the present Criminal Petition is allowed in terms of the common order dated 27.08.2018 in Criminal Petition No.3731 of 2018 and batch, and the proceedings in Crime No.19 of 2021 pending on the file of the Station House Officer, Nizamabad Rural 1992 Supp.(1) SCC 335 Police Station, Nizamabad District, are hereby quashed against the petitioner - sole accused.

As a sequel thereto, miscellaneous petitions pending, if any, pending in the criminal petition stand closed \_\_\_\_\_ K. LAKSHMAN, J February 9, 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