

L. Sahu, vs The State Of Andhra Pradesh on 18 November, 2021

Author: D.Ramesh

Bench: D.Ramesh

THE HONOURABLE SRI JUSTICE D.RAMESH

CRIMINAL PETITION No.6439 OF 2021

ORDER:

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A Crime in F.I.R No.116 of 2021 has been registered in Pachipenta Police Station, Vizianagaram District against the petitioners for the offences under Sections 272, 273 of IPC and Section 22 r/w 5(1) of Cigarettes and Other Tobacco Products (COTPA) Act on the ground that the petitioner was caught in possession of tobacco and tobacco products.

2. 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 Crl.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 Crl.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.116 of 2021 in Pachipenta Police Station, Vizianagaram District with a direction to return the seized tobacco and tobacco products to the petitioner.

Miscellaneous petitions, pending if any, in this Criminal Petition shall stand closed.

JUSTICE D.RAMESH Date :18-11-2021 KLPD THE HONOURABLE
SRI JUSTICE D.RAMESH CRIMINAL PETITION No.6439 OF 2021 Date : 18-11-2021 KLPD