

Nukala Manohar Rao Manohar vs The State Of Andhra Pradesh on 28 June, 2021

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IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAV

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND TWENTY ONE

:PRESENT:
THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO: 3402 OF 2024
Between:

Nukala Manohar Rao @ Manohar, S/o.Krishnamurthy, Occ. Business, R/o.
H.No.3/128, RTC Bus Stand Road, Koilakuntla Town, Kurnool, Kurnool
District.

. .Petitioner/Accused No.2
AND

The State of Andhra Pradesh, Rep. by the Public Prosecutor, High Court of
Andhra Pradesh at Amaravathi.
...Respondent

Petition under Section 482 of Cr.P.C, praying that in the circumstances
stated in the memorandum of grounds filed in Criminal Petition, the High Court
may be pleased to quash the proceedings against the Petitioner/accused No.2 in
Crime Number 161/2020 of Allagadda Town Police Station, Kurnool District.

IA NO: 2 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances
Stated in the memorandum of grounds filed in Criminal Petition, the High Court
may be pleased to stay of all further proceedings against the Petitioner/accused
No.2 in crime Number 161/2020 of Allagadda Town Police Station, Kurnool
District, pending disposal of CRLP 3402 of 2021, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the
memorandum of grounds filed in support thereof and upon hearing the
arguments of Sri D Purnachandra Reddy, Advocate for the Petitioner and Asst.
Public Prosecutor for the Respondent, the Court made the following;

ORDER:

THE HON' BLE SMT.JUSTICE LALITHA KANNEGANTI CRIMINAL PETITION No.3402 of 2021
ORDER:-

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 {for short 'Cr.P.C.'} to quash the proceedings in Crime No.161 of 2020 on the file of Allagadda Town Police Station, Kurnool District registered for the offences punishable under Sections 188 and 273 r/w 34 of the Indian Penal Code, 1860 (for short "IPC") and Section 59 (1) of the Food Safety and Standards Act, 2006 {for short 'FSS Act'}. The petitioner herein is A-2 in the above case.

2. The case of the prosecution is that on 08.06.2020 at 12.00 pm. on receipt of credible information, the Station House Officer, Allagadda Town Police Station along with panchayatdars went to cool drinks shop of one Gouse in old bus stand, Allagadda and found one person was carrying a plastic bag and on enquiry, he disclosed his identity as that of the petitioner herein. On verifying the bag, they found various tobacco products worth Rs.2,600/- and the police seized the bag under the cover of panchayatnama. Basing on the same, the above crime was registered.

3. Heard Sri D.Purna Chandra Reddy, learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State.

4. Learned counsel for the petitioner submits that Sections 273 of IPC and Section 59 {i} of FSS Act relate to food safety standards, Section 273 of IPC speaks about sale of Noxious Food or Drink. He further submits that possession, sale, purchase and transport of To, Tn & wo N= banned gutka and tobacco products will not attract the offences as alleged as they do not fall under the definition of food and also do not spread any disease. Moreover, the police have no power to register the offences under above sections except the designated officers like Food Safety Officer. Further, Section 188 of IPC would apply when there is disobedience of an order duly promulgated by a public servant. As such even Section 188 of IPC is not applicable to the present case.

3. Learned Counsel for the petitioner submits that in similar circumstances, this Court passed orders in Criminal Petition No.3731 of 2018 and batch, allowing several criminal petitions by quashing respective F.1.Rs. Hence, he prays to allow this petition,

6. Learned Public Prosecutor has not disputed the fact that in similar circumstances several F.]Rs were quashed by this Court. 7%, In the light of the above, this criminal petition is allowed and the proceedings in Crime No.161 of 2020 on the file of Allagadda Town Police Station, Kurnool District, are hereby quashed against the petitioner herein.

As a sequel, pending miscellaneous petitions, if any, shall stand closed, i wv Sd/-M.Suryanadha Reddy ASSISTANT REGISTRAR HTRUE COPY// The Judicial Magistrate of First Class, Kollakuntla, Kurnool District, The Station House Officer, Allagadda Town Police Station, Kurnool District. One CC to Sri. D Purnachandra Reddy, Advocate [OPUC] Two CCs to Public Prosecutor, High Court of AP [OUT] One spare copy.

For SECTIONOFFICER HIGH COURT LK,J DATED:28/06/2021 ORDER ALLOWED