

Sambari Pavan Kumar And 2 Others vs The State Of Telangana And Another on 26 February, 2021

Author: K. Lakshman

Bench: K. Lakshman

HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.1166 OF 2021

ORDER (ORAL) :

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners - accused Nos.1, 2 and 3 seeking to quash the proceedings against them in Crime No.7 of 2021 pending on the file of the Station House Officer, Mamada Police Station, Nirmal District. The offences alleged against the petitioners are under Sections 270 and 273 read with Section 34 of the Indian Penal Code, 1860.

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

3. The learned counsel for the petitioners as well as the learned Assistant Public Prosecutor would submit that the subject matter is squarely covered by the common order in Chidurala Shyamsubder v. State of Telangana¹ rendered by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, and placed a copy of the said judgment for perusal.

4. In Chidurala Shyamsubder's case (Supra), a learned single Judge, following the guidelines laid down by the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal², held that the Police are incompetent to take cognizance of the offences punishable under CrI.P.No.3731 of 2018 & batch, decided on 27.08.2018 1992 Supp. (1) SCC 335 2 Sections 45 and 59(1) of the Food Safety and Standards Act, 2006 (for short 'FSS Act'), as such, investigating into the said offences along with other offences under the provisions of the Indian Penal Code, 1860, and filing charge sheet is grave illegality, as the Food 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. In the present case, the Police have registered the crime for the offences under Sections 270 and 273 read with Section 34 of the Indian Penal Code, 1860. Therefore, the proceedings in Crime No.7 of 2021 against the petitioners herein are contrary to the principle laid down in Chidurala Shyamsubder's case (Supra 1), as such, the same are liable to be quashed.

5. In view of the above, the present Criminal Petition is allowed in terms of the judgment in Chidurala Shyamsubder's case (Supra 1) and accordingly the proceedings in Crime No.7 of 2021 pending on the file of the Station House Officer, Mamada Police Station, Nirmal District, are hereby quashed against the petitioners herein - accused Nos.1, 2 and 3 alone.

As a sequel thereto, miscellaneous petitions, if any, pending in this criminal petition stand closed.

_____ K. LAKSHMAN, J February 26, 2021.

NOTE:

Registry is directed to annex a copy of the common order dated 27.08.2018 in Crl.P. No.3731 of 2018 & batch along with this order. (BO) PV