

Obul Setty Hari Babu vs State Of Telangana on 2 July, 2024

Author: Juvvadi Sridevi

Bench: Juvvadi Sridevi

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION No.118 OF 2021

O R D E R:

Petitioners, who are accused Nos.7 and 8 in C.C.No.1014 of 2017 on the file of IX Additional Chief Metropolitan Magistrate, Hyderabad, are seeking to quash the proceedings against them in the said case.

2. Heard learned counsel for petitioners and learned Assistant Public Prosecutor appearing for the respondent-State.

3. The offences alleged against the petitioners are under Sections 272, 273 and 336 of IPC on the ground that petitioner No.1/accused No.7 had come to Hyderabad to book an order for Gutka and petitioner No.2/accused No.8 has assisted petitioner No.1. It is alleged that both the petitioners were packing and transporting Gutka and other Tobacco products at Kaveri Road Carriers, King Koti branch, Hyderabad.

4. A perusal of the record would reveal that the lis involved in this case had already been dealt with by this Court extensively in a batch of cases in Mohd. Jameel Ahmed v. State of Telangana 1 and also in an unreported order dated 10.06.2022 in CrI.P.No.5619 of 2020 and batch.

5. In Mohd. Jameel Ahmed's case (1 supra), it is held that as per Section 272 of IPC, whoever adulterates any article of food or drink, is 2022 CrilLJ 642.

punishable. The word 'adulteration' is not defined in IPC and is defined under the provisions of the Food Safety and Standards Act. As per Section 272 of IPC, if a material is used to make the food unsafe/sub-standard or mis-branded, then only the offence would be attracted. It is further held in the said judgment that as per Section 273 of IPC, whoever sells or offers or exposes for sale, as food or drink, or any article which has become noxious, is punishable. The word 'noxious' is not defined either in IPC or in the Food Safety and Standards Act. The dictionary meaning of the word 'noxious' is harmful, deleterious, injurious, poisonous etc., It is further held in the said judgment that as per Section 336 of IPC, whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, is punishable.

6. With the aforesaid purport of the offences under Sections 272, 273 and 336 of IPC, the allegation in this case is that the petitioners were found packing and transporting Gutka and other Tobacco

products, which does not fall within the ambit of Section 272 of IPC. Similarly, Section 273 of IPC would be attracted only when an article was made noxious. This provision is also not attracted in the present case, as the petitioners were merely alleged to have been packing and transporting Gutka and other Tobacco products. Coming to Section 336 of IPC, there is no allegation of rash and negligent act endangering human life or personal safety of others, against the petitioners, as per the contents of the complaint or the charge sheet.

7. Therefore, in view of the aforesaid law laid down by this Court, this Criminal Petition is allowed quashing the proceedings against the petitioners herein, in C.C.No.1014 of 2017 pending on the file of IX Additional Chief Metroplitan Magistrate, Hyderabad.

Miscellaneous Petitions, pending if any, shall stand closed.

JUVVADI SRIDEVI, J Date: 02.07.2024 Note:

Office to enclose copy of the order dated 05.07.2021 in Crl.P.No.152 of 2020 and batch and the order dated 10.06.2022 in Crl.P.No.5619 of 2020 and batch. b/o.

Lk