

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No. 8524 of 2019

ORDER:

The present Criminal Petition is filed under Section 482 Cr.P.C. by the petitioner/A-8, seeking to quash the proceedings in Crime No.1063 of 2019 of Banjara Hills Police Station, Hyderabad District, which was registered against the petitioner/A-8 and others for the offences punishable under Sections 328 and 188 of I.P.C. and Sections 4 and 20 (2) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

The facts in brief are that the petitioner/A-8 is the absolute owner and possessor of Shop No.13 on the Terrace Floor admeasuring 2280 square feet including common area along with space for one car parking in the cellar in the premises named as OWNERS PRIDE No.8-2-681/BA/B1 (old), 1717 (New), Road No.12, Banjara Hills, Hyderabad. Accused Nos.1 and 2 took the said premises on lease from the petitioner/A-8 and running "Skypark". Accused Nos.1 and 2 engaged accused Nos.3 to 7 as their staff in Skypark, in which accused No.3 mixed the hookah flavours and accused Nos.4 and 5 served the same to customers, where as accused Nos.6 and 7 were observing the police movements in order to run the Hookah Business and help accused Nos.1 and 2. Accused persons serving hookah to the customers and even minors without

maintaining proper records or following proper guidelines laid by the concerned authorities and many cases have been booked against accused Nos.1 and 2 and his associates/staff. As many minors, who are studying intermediate came to have hookah, accused persons allow them to consume hookah without collecting I.D.proofs and charge huge money from them, thereby leading them into intoxication and due to thrill that the minors receive due to intoxication, they are driving vehicles with high speed even though they do not have driving licence, which led to many accidents, injuries and even death of innocent people, who passed on the roads and the people who are intoxicated also committed offences like sexual abuse and harassment and led them to do unsocial activities.

Heard learned Counsel for the petitioner/A-8, learned Additional Public Prosecutor, appearing for the respondents and perused the record.

Learned Counsel for the petitioner/A-8 would submit that the petitioner is the owner of the premises and he is residing in U.S.A. and he entered into a lease deed, dated 13.04.2017 with accused No.1 and in column No.10 of the said lease deed, it is mentioned that if any act committed by the lessee during the lease period, the lessee is only liable for the consequences and that the other accused committed the above offences without the knowledge of the petitioner/A-8, as such, continuation of proceedings against him in

the above crime, is nothing but an abuse of process of law and the same are liable to be quashed.

Learned Additional Public Prosecutor appearing for the respondents/State does not dispute the fact that the petitioner/A-8 is residing in U.S.A. for the last eight years and he further submits that as per the lease deed the lessor is only liable for prosecution.

On perusal of the material on record, it would reveal that the petitioner/A-8 is the owner of the premises, where the Skypark hookah centre was running. The petitioner/A-8 is residing in U.S.A. since eight years and he leased out the said premises to accused No.1 and on 08.05.2012 a lease deed has been executed between the petitioner/A-8 and the accused No.1 on behalf of M/s. BK SKYPARK, vide document No.1815 of 2012. In Column No.10 of the lease deed, it is mentioned as under:

“In the event of the lessee committing any act during the lease period whereby its assets are in danger of being attached or proceeded against by legal process, the same shall operate as deemed surrender of the lease by the lessee in favour of the lessor, determining the lease and entitling the lessor to exercise right of re-entry.”

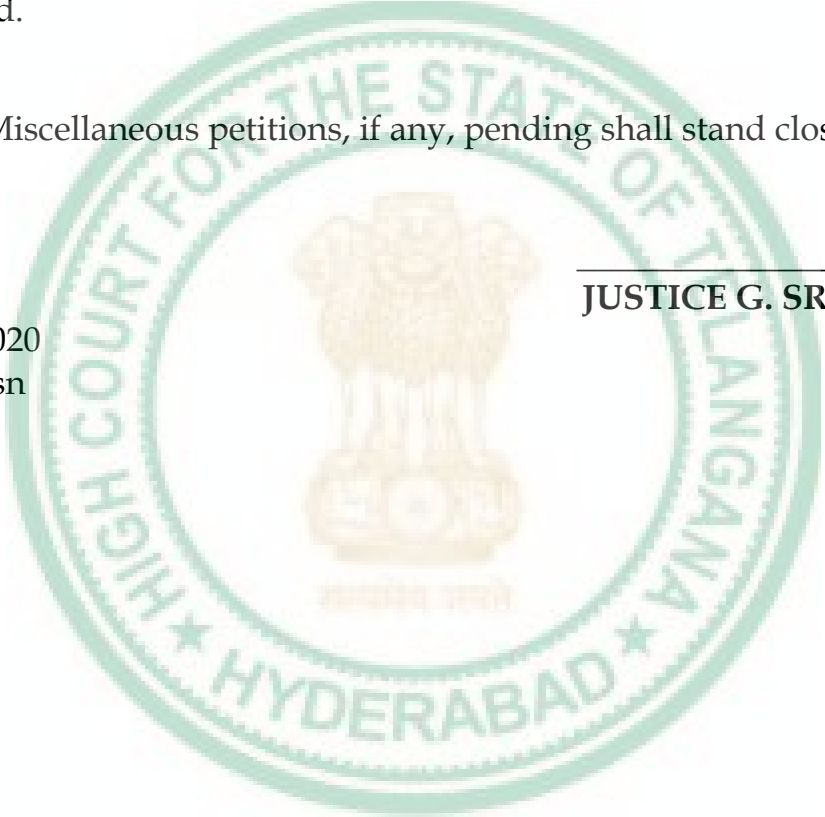
Apart from that, in column No.1 of the lease deed, it is clearly mentioned that the “lessor will no way be responsible for the work done by the lessee”. Since the petitioner/A-8 is the owner of the seized premises and residing in U.S.A. for the last 8 years and accused Nos.1 and 2 have committed the said offences without his

knowledge, I find that it is a fit case to exercise inherent jurisdiction under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A-8 in Crime No.1063 of 2019 of Banjara Hills Police Station, Hyderabad.

Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/A-8 in Crime No.1063 of 2019 of Banjara Hills Police Station, Hyderabad District, are hereby quashed.

Miscellaneous petitions, if any, pending shall stand closed.

03.02.2020
gkv/Gsn


JUSTICE G. SRI DEVI