

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.479 OF 2021

ORDER:

This petition is filed under Section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No.625 of 2020 pending on the file of the Judicial Magistrate of First Class, Adilabad, relating to Crime No.514 of 2018 of Adilabad II Town Police Station, Adilabad. The petitioners herein are Accused Nos.1 and 2 in the said crime. The offences alleged against the petitioner are under Sections 20(2) read with Section 7(2) of Cigarette and Tobacco Product Act, 2003.

Heard Sri Gajanand Chakravarthi, learned counsel for the petitioners and the learned Assistant Public Prosecutor.

Perused the record.

Perused the entire material available on record and it discloses that while conducting patrolling in the town by the Police, they noticed that the petitioners herein with Tobacco bags at Punjab Chowk, Adilabad, waiting for vehicle to transport the tobacco bags, without having any valid licence, selling those stocks and therefore, they seized the stocks.

In **CHIDURALA SHYAMSUBDER V/s. STATE OF TELANGANA**¹ a learned Single Judge of the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh, following the guidelines laid down by the Hon'ble Supreme Court in **STATE OF HARYANA V/s.**

¹ CrI.P.No.3731 of 2018 and batch, decided on 27.08.2018.

BHAJAN LAL² held that the police are incompetent to take cognizance of the offences punishable under Sections 54 and 59(1) of the Food Safety and Standards (FSS) Act, 2006, investigating into the offences along with the other offences under the provisions of the Indian Penal Code, 1860, and filing of charge sheet is a grave illegality, as the Food Safety Officer alone is competent to investigate and to file charge sheet following the Rules laid down under Sections 41 and 42 of the FSS Act, and whereas in the present case, the police have registered the crime for the offences punishable Sections 20(2) read with Section 7(2). Therefore, the said proceedings in C.C.No.625 of 2020 pending on the file of the learned Judicial Magistrate of First Class, Adilabad, arising out of Crime No.514 of 2018 of Adilabad II Town Police Station, Adilabad, against the petitioners–Accused Nos.1 and 2 herein are contrary to the principle held by the learned Single Judge of the High Court in **CHIDURALA SHYAMSUBDER** *supra* and accordingly, the same are liable to be quashed.

In view of the above submission, this Criminal Petition is allowed in terms of the judgment in **CHIDURALA SHYAMSUBDER** *supra*, and the proceedings in C.C.No.625 of 2020 pending on the file of the learned Judicial Magistrate of First Class, Adilabad, arising out of Crime No.514 of 2018 of Adilabad II Town Police Station, Adilabad, are hereby quashed against the petitioners–A.1 and A.2.

² 1992 Supp.(1) SCC 335

Further, the petitioners are at liberty to file appropriate application for return of the seized property, and the learned Magistrate shall consider the same and return the seized property on proper identification and verification of ownership of the seized property under due acknowledgment.

As a sequel, miscellaneous petitions, if any, pending in the Criminal Petition shall stand closed.

K. LAKSHMAN, J

Date: 09.02.2021

Note:

Registry is directed to annex a copy of common order dated 27.08.2018 in CrI.P.No.3731 of 2018 & batch.

(B/o)pgs

