

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No. 583 OF 2021

ORDER:

This petition is filed under Section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No.594 of 2020 on the file of the Special PCR Mobile Court-cum-Judicial Magistrate of First Class at Adilabad against the petitioner/Accused. The offences alleged against the petitioner are under Sections 270 and 273 of IPC and Section 20 (2) r/w.7(2) of Cigarette & Tobacco Product Act, 2003 (for short 'COTPA Act').

2. Learned counsel for the petitioner as well as the learned Assistant Public Prosecutor would submit that the subject matter is squarely covered by a common order in **Chidurala Shyamsubder v. State of Telangana**¹ rendered by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, and placed copy of the said judgment for perusal.

3. In **Chidurala Shyamsubder**'s case (supra), a learned Single Judge of the High Court, following the guidelines laid down by the Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal**², held that the Police are incompetent to take cognizance of the offences punishable under Sections 45 and 59(1) of the Food Safety and Standards (FSS) Act, 2006,

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

² 1992 Supp. (1) SCC 335

investigating into the 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 and to file charge sheet following the Rules laid down under Sections 41 and 42 of FSS Act, whereas, in the present case, the Police have registered the crime for the offences under Sections 270 and 273 of IPC and Section 20 (2) r/w.7(2) of COTPA Act. Therefore, the said proceedings in C.C.No.594 of 2020 against the petitioner 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.

4. In view of the above submission, the present Criminal Petition is allowed in terms of the judgment in **Chidurala Shyamsubder** (supra), and the proceedings in C.C.No.594 of 2020 on the file of the Special PCR Mobile Court-cum-Judicial Magistrate of First Class at Adilabad, are hereby quashed against the petitioner/Accused.

5. Since the proceedings in C.C.No.594 of 2020 are quashed, the petitioner is at liberty to file an appropriate application before the Special PCR Mobile Court-cum-Judicial Magistrate of First Class at Adilabad, seeking to release of the seized property and the learned Magistrate shall consider the same and release the seized property on verification of the ownership.

6. Accordingly, the Criminal Petition is allowed.
Miscellaneous petitions pending, if any, in this Criminal
Petition, shall stand closed.

Date: 09.02.2021
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K. LAKSHMAN, J