

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NO: 5308 OF 2021

Between:

Dinesh Kumar, S/o. Mothiram, Aged 33 years, Occ. Business, R/o. RP Colony,
Qutbullapur, Hyderabad.

...Petitioner

AND

The State of Telangana, represented by the Public Prosecutor, High Court, at
Hyderabad, Through Police Station S.R.Nagar, at Hyderabad.

...Respondent

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings against the Petitioner in Crime. No. 295 of 2021, Police Station S.R.Nagar for the alleged offences U/s 328 r/w 511, 188, 272, 273, 336 r/w 34 IPC, 20(2) COTPA Act.

I.A. NO: 2 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including arrest and appearance of the petitioners in Crime.No.295 of 2021; Police Station S.R.Nagar pending disposal of the Criminal Petition in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Srinivas Reddy Balakisti, Advocate for the Petitioner and the Assistant Public Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.5308 OF 2021

ORDER:

This petition is filed under Section - 482 of the Code of Criminal Procedure, 1973 to quash the proceedings in Crime No.295 of 2021 pending on the file of Sanjeevareddy Nagar Police Station, Hyderabad. The petitioner herein is accused No.3 in the said crime. The offences alleged against him are under Sections - 328 read with 511, 188, 272, 273 and 336 read with 34 of I.P.C. and Section 20 (2) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (for short 'COTP Act')

2. Heard Mr. Srinivas Reddy Balakisti, learned counsel for the petitioner, and the learned Assistant Public Prosecutor appearing on behalf of respondent - State.

3. This Court, by common order dated 05.07.2021 in CrI.P. No.152 of 2020 and batch, has extensively dealt with the issue covered in the present criminal petition observing that transportation, possession, storage, sale and purchase of tobacco products are not totally banned in the State of Telangana and, therefore, it cannot be said that offences under Sections - 269, 270, 271, 272 and 273, 328, 336 and 420 of IPC are attracted to the petitioners therein.

4. Concerning provisions of Section - 20 of COTP Act, in the said common order, this Court also observed that the said provision deals with punishment for failure to give specified warning and nicotine and tar contents. But, in the complaints / charge sheets therein, there is no allegation against the petitioners therein that they were carrying on trade or commerce in contraband or any other tobacco products without label and specified warning on the said products. In view of the same, the contents of the complaints / charge sheets lack the ingredients of Section - 20 (2) of the COTP Act. Even, there is no allegation that the seized products do not contain labels with statutory warning. Observing so, this Court held that registering the crimes for the said offence against the petitioners therein is contrary to Section - 20 (2) of COTP Act.

5. In the present case also, the allegations against the petitioner are that he was supplying the prohibited tobacco products and the contents of the complaint do not attract the ingredients of offences under Sections - 328 read with 511, 188, 272, 273 and 336 read with 34 of I.P.C. and Section - 20 (2) of COTP Act and, therefore, the proceedings against the petitioner in the above crime are also liable to be quashed.

6. The present Criminal Petition is accordingly allowed quashing the proceedings in Crime No.295 of 2021 pending on the file of Sanjeevareddy Nagar Police Station, Hyderabad, against the petitioner – accused No.3.

7. Since the proceedings are quashed against the petitioner in the above crime, the Station House Officer, Sanjeevareddy Nagar Police Station, is hereby directed to return the seized property to the petitioner on proper identification and verification of ownership under due acknowledgment.

As a sequel, miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

//TRUE COPY//

SD/- I. NAGA LAKSHMI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The III Additional Chief Metropolitan Magistrate, at Nampally, Hyderabad.
 2. The Station House Officer, S.R.Nagar Police Station, at Hyderabad.
 3. Two CCs to the Assistant Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
 4. One CC to Sri Srinivas Reddy Balakisti, Advocate [OPUC]
 5. Two CD Copies
- MMK

7/1/21

HIGH COURT

KLJ

DATED:14/07/2021



ORDER

CRLP.No.5308 of 2021

ALLOWING THE CRIMINAL PETITION

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23/7/21
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