

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

TUESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION NO: 6648 OF 2020

Between:

1. Engala Rajkar Reddy, S/o. Mohan Reddy, Aged 40 Years, Occ. Private Employee, R/o H.No 7-8-324, Bala Nagar, Cyberabad District.
2. Bollaenkula Srikanth, S/o. Raju, Aged 29 Years, Occ. Driver, R/o H.No. 16-9-295, Warangal, Warangal District.
3. Engala Venkat Ram Reddy, S/o. Mohan Reddy, Aged 38 Years, Occ. Driver, R/o. H.NO 7-8-14, Bala Nagar, Cyberabad District.

...Petitioner/Accused No.1 to 3

4. Soma Rathnashekar, S/o. S. Veerabhadram, Aged About 42 years, Proprietor of Sanjana Traders, address H.No 2-215/5, RTC Bus Stan Road, Mahabubabad, Mahabubabad District.

...Petitioner/Owner of the property

AND

1. Sub -Inspector of Police, Hadnoor, Police Station, Sanga Reddy District.

...Respondent/Complainant

2. The State of Telangana, represented by its Public Prosecutor, High Court, at Hyderabad.

...Respondent/Complainant

Petition under Section 451 Read with 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 order dated. 29/10/2020 made in CRL.MP. No. 524 of 2020 in Crime No. 77of 2020 on the file of Judicial Magistrate of First Class, at Zaheerabad and direct to return 30 packets of Amber Tobacco products seized In Crime No.77 of 2020 by Hadnoor Police Statlon Sanga Reddy District.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri K. Surender, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondents.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.6648 OF 2020

ORDER:

This petition is filed under Section 482 of Cr.P.C., seeking to quash the order dated 29.10.2020 in Crl.M.P.No.524 of 2020 in Crime No.77 of 2020 on the file of Judicial Magistrate of First Class at Zaheerabad and also to return Amber Tobacco products seized in Crime No.77 of 2020 by Hadnoor Police Station, Sangareddy District.

2. Petitioners Nos.1 to 3 are accused Nos.1 to 3 in the said Crime. Petitioner No.4 is the owner of the property seized in the said Crime. The offences alleged against petitioner Nos.1 to 3/accused Nos.1 to 3 are under Sections 270 and 273 of IPC and Section 20(2) of Cigarettes and Other Tobacco Products Act, 2003 (for short, COTPA Act). Petitioner No.4, being the owner of the seized property, filed Crl.M.P.No.524 of 2020 in Crime No.77 of 2020 before the Court below seeking to release the seized property i.e., 30 bags of Amber Tobacco. The Court below, by order dated 29.10.2020, dismissed the said application on the ground that since this Court suspended the notification No.501/FSS-1/2020, dated 06.01.2020 issued by the Government, the matter is subjudiced before this Court and hence, releasing the seized property does not arise.

3. Heard Sri K.Surender, learned counsel for the petitioners and learned Public Prosecutor. Perused the record.

4. The learned counsel for the petitioners as well as the learned Assistant Public Prosecutor would submit that the subject matter is squarely covered by a judgment 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.

5. 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, 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) of the COTPA Act.

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

² 1992 Supp. (1) SCC 335

6. In view of the above, the impugned order dated 29.10.2020 in CrI.M.P.No.524 of 2020 in Crime No.77 of 2020 passed by the learned Judicial Magistrate of First Class at Zaheerabad, is quashed. The Station House Officer, Hadnoor Police Station, Sangareddy District, is directed to release the seized property i.e., 30 bags of Amber Tobacco to petitioner No.4 on verifying the documents with regard to ownership of the said property.

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

//TRUE COPY//

SD/- B. SATYAVATHI
ASSISTANT REGISTRAR
GB
SECTION OFFICER

To,

1. The Judicial Magistrate of First Class, at Zaheerabad, Sangareddy District.
2. The Station House Officer, Hadnoor Police Station Sangareddy District.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Sri K. Surender, Advocate [OPUC]
5. Two CD Copies

MMK



HIGH COURT

KLJ

DATED:19/01/2021



ORDER

CRLP.No.6648 of 2020

ALLOWING THE CRIMINAL PETITION

⑦ vlv
28/1/21