

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

**FRIDAY, THE TWELFTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO: 8233 OF 2021

Between:

1. Shaik Mubin, S/o Shaik Babu, Aged about 30 Years, Occ Business, R/o Dharmabad Village and Mandal, Nandeed District.
2. Sohel Khan, S/o Ayyub Khan, Aged about 23 Years, Occ Business, R/o Pinjari Gutta, Nirmal Town, Nirmal District.
3. Shaik Shafeeq, S/o Shaik Ahmed, Aged about 39 Years, Occ Business, R/o H.No. 5-11-128/1, Pinjari Gutta, Nirmal Town, Nirmal District.

...PETITIONERS/ACCUSED Nos. 1 to 3

AND

The State of Telangana, through S.H.O. Nirmal (T) Police Station, Nirmal District, represented by Public Prosecutor, High Court at Hyderabad.

...RESPONDENT/COMPLAINANT

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 call for the records relating to case in Crime No.432 of 2021 on the file of P.S. Nirmal (T), Nirmal District and quash the proceedings in the above Crime No.432 of 2021.

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 direct the police to return the seized material in Crime No. 432 of 2021 of Nirmal (T) Police Station, Nirmal District to the petitioner.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Gajanand Chakravarthi, Advocate for the Petitioners and the Assistant Public Prosecutor (TG) on behalf of the sole Respondent.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.8233 of 2021

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A1 to A3, seeking to quash the proceedings in Crime No.432 of 2021 of Nirmal(T) Police Station, Nirmal District, registered for the offences punishable under Sections 270 and 273 of IPC and Section 20(2) of 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 the learned counsel for the petitioners/A1 to A3, the learned Assistant Public Prosecutor representing the respondent-State and perused the record.

3. Learned counsel for the petitioners/A1 to A3 would submit that the facts and circumstances of the case on hand are akin to the facts and circumstances of the case in Crime No.34 of 2018 of Manakondur Police Station, and the proceedings in the said crime were quashed by this Court, *vide* common order, dated 27.08.2018, passed in Criminal Petition No.3731 of 2018 and batch. The allegations in the subject crime also do not constitute the offences under Sections 270 and 273 of IPC and Section 20(2) of COTP Act and ultimately, prayed to allow the Criminal Petition, as prayed for.

4. The learned Assistant Public Prosecutor has conceded that the allegations in the subject FIR do not constitute offence under Sections 270 and 273 of IPC, but contended that since the offence under Section

20(2) of COTP Act is cognizable, the proceedings against the petitioners/A1 to A3 for the said offence cannot be quashed.

5. In view of the above submissions and the material placed on record, the allegations made against the petitioners/A1 to A3 in the subject Crime No.432 of 2021 of Nirmal(T) Police Station, Nirmal District, do not constitute the offences under Sections 270 and 273 of IPC. Further, the material seized do not demonstrate that it is dangerous or hazardous to public health. Under these circumstances, when there is no information constituting such cognizable offence, issuance of FIR in respect of such offence is unsustainable. Accordingly, the proceedings against the petitioners/A1 to A3 for the offences under Sections 270 and 273 of IPC, in the subject crime are hereby quashed.

6. Insofar as the offence under Section 20(2) of COTP Act is concerned, the material placed on record *prima facie* disclose commission of said offence by the petitioners/A1 to A3 and hence, proceedings against the petitioners/A1 to A3 in relation to the said offence, cannot be quashed. The investigating authority has to investigate into the said offence in accordance with law and file charge-sheet/final report, as the case may be.

7. Accordingly, this Criminal Petition is partly allowed, as indicated above.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

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SD/-B.SATYAVATHI
ASSISTANT REGISTRAR

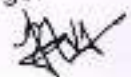
SECTION OFFICER

To,

1. The Station House Officer, Nirmal (T) Police Station, Nirmal District.
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad (OUT).
3. One CC to Sri Gajanand Chakravarthi Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

pcsd

gbr



HIGH COURT

DATED: 12/11/2021



ORDER

CRL.P.No.8233 of 2021

PARTLY ALLOWING THE CRIMINAL PETITION

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25/11/21
HVL