

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY THE NINETEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 9959 OF 2022

Between:

1. Mohammed Abdul Qualiq and another, S/o Quddus, age 40 years, caste Muslim, occ. business, R/o H.No. 18-1245, Ashoknagar, Miryalguda town,

...PETITIONER/ACCUSED No.1

2. Syiad Khader, S/o Chand, age. 46 yrs, caste. Muslim, Occ. Business, R/o brahimpattanam Ranga reddy district

...PETITIONER/ACCUSED No.2

AND

1. The State of Telangana and another, Rep by its Public Prosecutor, High Court for the State of Telangana Hyderabad.
2. The Sub-Inspector of Police, Miryalguda II town Police Station, Nalgonda District.

...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 quash the proceedings of the petitioners in CC NO. 123 of 2022 On the file of Honourable Judicial First Class Magistrate at Miryalguda, Nalgonda District.

I.A. NO: 2 OF 2022

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 respondents to release the stock seized in CC NO. 123 of 2022 On the file of Honourable Judicial First Class Magistrate at Miryalguda, Nalgonda District in favour of the Petitioners.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri BALA MURALI Y, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent.

The Court made the following:

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.9959 OF 2022
ALONG WITH I.A.No.2 of 2022

COMMON ORDER:

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed by the petitioners to quash the proceedings against them in C.C.No.123 of 2022, pending on the file of Judicial First Class Magistrate at Miryalaguda, Nalgonda District.

2. The petitioners herein are the accused Nos.1 and 2 in the said crime. The offences alleged against them are under Sections 328 read with 511 of Indian Penal Code (for short "IPC") 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').

3. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent. Perused the record.

4. Learned counsel for the petitioners submits that this case is squarely covered by the Common Order rendered by this Hon'ble

Court in Criminal Petition No.9062 of 2021 and batch, dated 14.07.2022.

5. This Court had repeatedly quashed the proceedings wherein tobacco products were found on the ground that the provisions under Sections 328 read with 511 of IPC and Section 20(2) of COTP Act, are not attracted. This Court vide Criminal Petition No.9062 of 2021 and batch, dated 14.07.2022 had quashed the proceedings against the accused persons.

6. In the said circumstances, this Criminal Petition is allowed quashing the proceedings in C.C.No.123 of 2022, pending on the file of Judicial First Class Magistrate at Miryalaguda, Nalgonda District.

7. As the proceedings in the aforesaid Criminal Petition are quashed against the petitioners, the petitioners are at liberty to file an appropriate application before the concerned Magistrate for return of the seized property/vehicle and the Magistrate shall consider the same in accordance with law. However, it is made clear that if the seized stock of tobacco products or other products are expired, the same shall be destroyed by taking permission from the concerned Magistrate.

8. The copy of the common order passed by this Court in Criminal Petition No.9062 of 2021 and batch, dated 14.07.2022, shall form part of this order.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

Sd/- G. SIREESHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Judicial First Class Magistrate at Miryalaguda, Nalgonda District.
2. The Sub-Inspector of Police, Miryalaguda II town Police Station, Nalgonda District.
3. One CC to SRI. BALA MURALI Y, Advocate [OPUC]
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad (OUT).
5. Two CD Copies

DL



HIGH COURT

DATED: 19/12/2022

ORDER

CRLP.No.9959 of 2022



ALLOWING THE CRIMINAL PETITION

8 Copies
Sm
25/1/23