

HIGH COURT FOR THE STATE OF TELANGANA

**MONDAY ,THE NINETEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 9497 OF 2022

Between:

Mohd.Abdul Aleem, S/o. Mohd.Abul Hakeem, Aged about 32 years,
Occ.Professional Services, R/o. 18-8-104/106, PN Nagar, Edi Bazar, Hyderabad,
T.S.

...PETITIONER/ACCUSED No.2

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad.
2. The State of Telangana, through P.S. Jubilee Hills, Hyderabad.

...RESPONDENTS/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 against the petitioner/accused No.2 in C.C.No.10165 of 2021 in Crime No.495 of 2018 of P.S. Jubilee Hills, Hyderabad, for the U/Sec. 328, 188 IPC and Sec. 4 and 20 (2) COTP Act

I.A. NO: 1 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 Stay all further proceedings against the petitioner in CC No. 10165 of 2021 in Crime No. 495 of 2018 of PS Jubilee Hills Hyderabad for the U/Sec 328, 188 IPC and Sec 4 and 20 (2) COTP Act pending disposal of the above criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri MOHD MAHBOOB AHMED KHAN ,Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondents

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.9497 OF 2022****ORDER:**

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed by the petitioner to quash the proceedings against him in C.C.No.10165 of 2021, pending on the file of XVII Additional Chief Metropolitan Magistrate at Hyderabad.

2. The petitioner herein is the accused No.2 in the said crime. The offences alleged against him are under Sections 328 and 188 of Indian Penal Code (for short "IPC") and Sections 4 and 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 petitioner and learned Additional Public Prosecutor for the respondent. Perused the record.

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

Court in Criminal Petition No.3731 of 2018 and batch, dated 27.08.2018.

5. This Court had repeatedly quashed the proceedings wherein tobacco products were found on the ground that the provisions under Sections 328 and 188 of IPC and Sections 4 and 20(2) of COTP Act, are not attracted. This Court vide Criminal Petition No.3731 of 2018 and batch, dated 27.08.2018 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.10165 of 2021, pending on the file of XVII Additional Chief Metropolitan Magistrate at Hyderabad.

7. Since the charge sheet is already filed, the petitioner is 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.3731 of 2018 and batch, dated 27.08.2018, shall form part of this order.

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

Sd/- N CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XVII Addl. Chief Metropolitan Magistrate, at Hyderabad
2. The Station House Officer, Jubilee Hills Police Station, Hyderabad.
3. Two CC to the Addl. Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to Sri. Molid Mahboob Ahmed Khan, Advocate [OPUC]
5. Two CD Copies

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HIGH COURT

KS, J

DATED:19/12/2022

ORDER

CRLP.No.9497 of 2022

CRIMINAL PETITION IS ALLOWED



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17/2/23