IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE TWENTY EIGHTH DAY OF NOVEMBER TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION NO: 15719 OF 2025

Between:

1. Syed Mohd Mustafa Etesham, S/o. Syed Ibrahim Azghar, Age. 20 years, Occ. Student, R/o. H-No. H.No 16-4-37, Anjuman Road, Chanchalguda, Hyderabad - 500024.
2. Syed Abdulla Mehdi,, S/o Syed Mohd Aftab Mehdi, Age. 20 years, Occ. Student, R/o H.No 16-4-37/1, Anjuman Road, Chanchalguda Hyderabad - 500024

...Petitioner/Accused No.4 & 5

AND

1. The State of Telangana, Rep. by its Public Prosecutor, Through Station House Officer, Malakpet Police Station
2. Shri. P. Naresh, S.I. of MalakpetPolice Station

...Respondents/Complainants

Petition under Section 528 of B.N.S.S. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the charge sheet filed in CC. No.1613 of 2025 on the file of the Court of the VII Addl Chief Judicial Magistrate at Nampally Hyderabad filed against the Petitioners herein on the file of Malakpet P.S U/Sec 20 (2) of the COTPA Act Section 223 of BNS.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri Omar A Pasha, Advocate for the Petitioner and Sri Jithender Rao Veeramalla, Additional Public Prosecutor on behalf of the Respondent No.1 and none appeared for the Respondent No.2.

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION No.15719 of 2025

ORDER:

This Criminal Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioners/accused Nos.4 and 5 seeking to quash the proceedings against them in C.C.No.1613 of 2025 on the file of VII Additional Chief Judicial Magistrate at Nampally, Hyderabad District, registered for the alleged offences punishable under Section 223 of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') 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 'COTPA').

2. Heard Mr.Omar A.Pasha, learned counsel for the petitioners and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing for the respondents.

3. Learned counsel for the petitioners submitted that the matter is squarely covered by the orders of this Hon'ble Court in Crl.P.Nos.12333 of 2024, 152 of 2020 and batch and in several other judgments. Hence, he prayed that the proceedings against the petitioners be quashed.

4. Learned Additional Public Prosecutor also submitted that the issue raised in the present criminal petition is covered by the earlier order passed in the aforementioned criminal petitions.

5. Perused the record. It is evident that the allegations in the present case pertain to purchase and **sale of Gutka packets**, which are similar to the allegations considered in ***Chidurala Shyamsunder vs The State Of Telangana***[1]. In the said case it was observed that the act of purchase and sale of gutka does not fall under Section 270 of IPC as it does not spread any infectious disease and further it is not a noxious food to attract the offence under Section 273 of IPC. It is further observed that similar orders have been passed in Crl.P.Nos.12333 of 2024, 152 of 2020 and batch, and in several other matters.

6. Since the allegations in the present case are similar to the above said decisions, this criminal petition is allowed in terms of the above said order. The proceedings against the petitioners/accused Nos.1 and 2 in C.C.No.1613 of 2025 on the file of VII Additional Chief Judicial Magistrate at Nampally, Hyderabad District, are hereby quashed. Further, the Station House Officer/Investigating Officer is hereby directed to return the

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[1] Crl.P.No.3731 of 2018 & batch, decided on 27.08.2018

seized property on proper identification and verification under due acknowledgment.

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

SD/-C.DEEPIKA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VII Addl Chief Judicial Magistrate at Nampally Hyderabad.
2. The Station House Officer, Malakpet Police Station, Hyderabad.
3. One CC to Sri. Omar A Pasha Advocate [OPUC]
4. Two CCs to Public Prosecutor, High Court for the State of Telangana. [OUT]
5. Two CD Copies.

YJR /PSL

HIGH COURT

DATED:28/11/2025

ORDER

CRLP.No.15719 of 2025



ALLOWING OF THE CRIMINAL PETITION.

(8)

kpr

4/12/25