

(2021) 07 TEL CK 0053
In the Telangana High Court
Case No : Criminal Petition No. 5358 Of 2021

Burra Lingaiah Sathaiah

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 14-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 273

Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 — Section 7(5), 20, 20(2)

Citation : (2021) 07 TEL CK 0053

Hon'ble Judges : K. Lakshman, J

Bench : Single Bench

Advocate : M A K Mukheed

Final Decision : Disposed Of

Judgement

1. This petition is filed under Section - 482 of the Code of Criminal Procedure, 1973 to quash the proceedings in C.C.No.2396 of 2019 pending on the

file of Judicial Magistrate of First Class, Nalgonda. The petitioners herein are accused nos.1 and 2 in the said crime. The offences alleged against

them are under Sections 273 of IPC & Section 7 (5) 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")

2. Heard Mr. M.A.K. Mukheed, learned counsel for the petitioners and the learned Assistant Public Prosecutor appearing on behalf of respondent -

State.

3. This Court, by common order dated 05.07.2021 in CrI.P. No.152 of 2020 and

batch, has extensively dealt with the issue covered in the present criminal petition observing that transportation, possession, storage, sale and purchase of tobacco products are not totally banned in the State of Telangana and, therefore, it cannot be said that offences under Sections - 273 of IPC & Section 7 (5) and Section 20 (2) are attracted to the petitioners therein.

4. Concerning provisions of Section - 20 of COTP Act, in the said common order, this Court also observed that the said provision deals with punishment for failure to give specified warning and nicotine and tar contents. But, in the complaints / charge sheets therein, there is no allegation against the petitioners therein that they were carrying on trade or commerce in contraband or any other tobacco products without label and specified warning on the said products. In view of the same, the contents of the complaints / charge sheets lack the ingredients of Section - 20 (2) of the COTP Act. Even, there is no allegation that the seized products do not contain labels with statutory warning. Observing so, this Court held that registering the crimes for the said offence against the petitioners therein is contrary to Section - 20 (2) of COTP Act.

5. In the present case also, the allegations against the petitioners are that they were selling the prohibited tobacco products and the contents of the complaint do not attract the ingredients of offences under Sections - 273 of IPC & Section 7 (5) and Section 20 (2) of COTP Act and, therefore, the proceedings against the petitioners in the above CC are also liable to be quashed.

6. The present Criminal Petition is accordingly allowed in terms of the common order dated 05.07.2021 in Crl.P. No.152 of 2020 and batch and the proceedings in C.C.No.2396 of 2019 pending on the file of Judicial Magistrate of First Class, Nalgonda, against the petitioners â?" accused nos.1 and 2 are hereby quashed.

7. Since the proceedings are quashed against the petitioners in the above CC, the petitioners are at liberty to file an appropriate application before the concerned Magistrate for return of the seized property and the learned Magistrate shall consider the same in accordance with law.

8. As a sequel, miscellaneous petitions, if any, pending in the criminal petition shall stand closed.