

(2021) 10 TEL CK 0017
In the Telangana High Court
Case No : Criminal Petition No. 7421 Of 2021

Gujar Ramesh

APPELLANT

Vs

State Of Telangana And Another

RESPONDENT

Date of Decision : 18-10-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 272, 273, 328, 511
Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 — Section 20(2)

Citation : (2021) 10 TEL CK 0017

Hon'ble Judges : Dr. Shameem Akther, J

Bench : Single Bench

Final Decision : Partly Allowed

Judgement

1. This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, seeking to quash the proceedings in Crime No.328 of 2021 of Pahadisharief Police Station, Rachakonda, registered for the offences punishable under Sections 272, 273, 328 r/w 511 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 petitioner/accused, the learned Assistant Public Prosecutor representing the respondents/State and perused the record.

3. Learned counsel for the petitioner/accused 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 case 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 272, 273, 328 r/w 511 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 offences under Sections 272, 273, 328 r/w 511 IPC, but contended that since the offence under Section 20(2) of COTP Act is cognizable, the proceedings against the petitioner/accused 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 petitioner/accused in the subject Crime No.328 of 2021 of Pahadisharief Police Station, Rachakonda, do not constitute the offences under Sections 272, 273, 328 r/w 511 IPC. Therefore, when there is no information constituting such cognizable offences, issuance of FIR in respect of such offences is unsustainable. Accordingly, the proceedings against the petitioner/ accused for the offences under Sections 272, 273, 328 r/w 511 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 petitioner/accused and hence, proceedings against the petitioner/accused 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.