
(2021) 07 TEL CK 0018
In the Telangana High Court
Case No : Criminal Petition No. 5622 Of 2021

Mohd Masarth Khan Miya Khan

APPELLANT

Vs

State Of Telangana And Another

RESPONDENT

Date of Decision : 22-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 188, 269, 270, 271, 272, 273, 326, 336, 420, 511
Cigarettes And Other Tobacco Products (Prohibition Of Advertisement And Regulation Of Trade And Commerce, Production, Supply And Distribution) Act, 2003 — Section 20, 20(2)

Citation : (2021) 07 TEL CK 0018

Hon'ble Judges : K. Lakshman, J

Bench : Single Bench

Advocate : Nanda Kishore Amarchand Yadav

Final Decision : Allowed

Judgement

1. This petition is filed under Section - 482 of the Code of Criminal Procedure, 1973 to quash the proceedings in Crime No.130 of 2021 pending on the file of Nacharam Police Station, Rachakonda. The petitioner herein is accused No.1 in the said crime. The offences alleged against him are under Sections â?" 328 read with 511, 188, 336, 272 and 273 read with 34 of 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 â?"COTP Actâ??)
2. Heard Mr. Nand Kishore Yadav, learned counsel for the petitioner 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 - 269, 270, 271, 272 and 273, 328, 336 and 420 of IPC 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 petitioner are that he was possessing and selling the prohibited tobacco products and the

contents of the complaint do not attract the ingredients of offences under Sections - 328 read with 511, 188, 336, 272 and 273 read with 34 of IPC and

Section - 20 (2) of COTP Act and, therefore, the proceedings against the petitioner in the above crime 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 CrI.P.No.152 of 2020 and batch and the

proceedings in Crime No.130 of 2021 pending on the file of Shahinayathgunj Police Station, Hyderabad, against the petitioner â?" accused No.1 are

hereby quashed.

7. Since the proceedings are quashed against the petitioner in the above crime, the Station House Officer, Shahinayathgunj Police Station, Hyderabad,

is hereby directed to return the seized property to the petitioner on proper identification and verification of ownership under due acknowledgment.

As a sequel, miscellaneous petitions, if any, pending in the criminal petition shall

stand closed.