

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT
THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO: 7264 OF 2021

Between:

Mohammed Azeem Uddin, S/o late Moharnmed Qamar Uddin, R/o. H.No. 18-07-198/B/93, Murad Mahal, Talab Katta, Hyderabad, Telangana.

...PETITIONER/ACCUSED

AND

The State of Telangana, Rep by its Public Prosecutor, High Court of Telangana at Hyderabad, Through P.S. Rein Bazar

...RESPONDENT/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 in Crime. No 147/2021, P.S. Rein Bazar, Hyderabad for the alleged offences U/s 188, 269, 273, 420 IPC and Sec.20(2) of COTP Act

I.A. NO: 2 OF 2021

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 direct the Respondent to return the seized property in connection with Crime No.147 of 2021, P.S.Rein Bazar, Hyderabad pending disposal of the Crl.P.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri SRINIVAS REDDY BALAKISTI, Advocate for the Petitioner and of the Assistant Public Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.7264 of 2021

ORDER:

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.147 of 2021 of Reinbazar Police Station, Hyderabad, registered for the offences punishable under Sections 188, 269, 273 and 420 of 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 the petitioner/accused, the learned Assistant Public Prosecutor representing the respondent-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 188, 269, 273 and 420 of 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 188, 269, 273 and 420 of 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 are not liable to 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.147 of 2021 of Reimbazar Police Station, Hyderabad, do not constitute the offences under Sections 188, 269, 273 and 420 of IPC. Therefore, when there is no information constituting such cognizable offences, issuance of FIR in respect of such offences is unsustainable and is liable to be quashed. Accordingly, the proceedings against the petitioner/accused for the offences under Sections 188, 269, 273 and 420 of 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* discloses 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.

Sd/-K.SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

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SECTION OFFICER

To

1. The VIII Additional Chief Metropolitan Magistrate, at Nampally, Hyderabad.
2. The Station House Officer, Rein Bazar Police Station, Hyderabad.
3. One CC to Sri Srinivas Reddy Balakisti, Advocate (OPUC)
4. Two CCs to Public Prosecutor, High Court for the State of Telangana, Hyderabad (OUT)
5. Two CD Copies
6. One Spare Copy

KJ

HIGH COURT

DATED:30/09/2021



ORDER

CRLP.No.7264 of 2021

PARTLY ALLOWING THE CRL.P.

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CIVIL
18/10/2021