



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

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Crl.R.C.(MD) No.162 of 2018
and
Crl.M.P.(MD) No.2242 of 2018

1.Shanmugaiah
2.Narayanan

... Petitioners / Accused

vs.

1.The State through
The Inspector of Police,
Irukkankudi Police Station,
Irukkankudi,
Virudhunagar District.
(Crime No.357 of 2015)

... 1st Respondent/Complainant

2.Sakthi Manikandan,
Sub Inspector of Police,
Irukkankudi Police Station,
Irukkankudi,
Virudhunagar District.

... 2nd Respondent/Defacto
Complainant

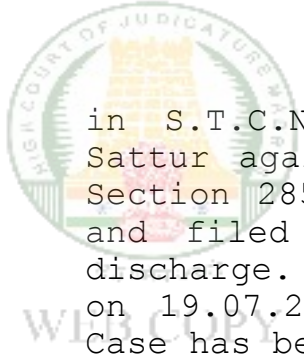
PRAYER: Criminal Revision Case filed, under Sections 397 r/w 401 Cr.P.C., praying to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.II, Sattur in Cr.M.P.No.2745 of 2017 against S.T.C.No.1773 of 2016 dated 19.07.2017 and set aside the same by allowing this Revision.

For Petitioners

:Mr.M.Kannan

For 1st Respondent:Mrs.S.Bharathi,
Government Advocate (Criminal side)O R D E R

On 20.08.2015, around 17.30 hours, near Nathampatti Roundana, the petitioners, who are belonging to a political party were agitating against the utterances of a leader of another political party and it is alleged that they burnt an effigy of the said leader. The police registered a case in Crime No.357 of 2015 under Sections 143 and 285 I.P.C. against the petitioners and others. After completing the investigation, the police filed a charge sheet



in S.T.C.No.1773 of 2016 before the Judicial Magistrate No.II, Sattur against the petitioners herein alone for the offence under Section 285 I.P.C. The petitioners appeared before the trial Court and filed Cr.M.P.No.2745 of 2017 in S.T.C.No.1773 of 2016 for discharge. The trial Court has dismissed the discharge application on 19.07.2017, aggrieved by which, the present Criminal Revision Case has been filed.

2.Heard Mr.M.Kannan, learned counsel for the petitioners and Mrs.S.Bharathi, learned Government Advocate (Criminal side) for the first respondent.

3.Mr.M.Kannan, learned counsel for the petitioners submitted that the final report and the statements of the witnesses including the statements of the independent witnesses do not disclose commission of the offence under Section 285 I.P.C. and therefore, the trial Court should have allowed the discharge application. He placed strong reliance on the decision of the Hon'ble Division Bench of this Court in A.Santhos Yadav v. The Bar Council of Tamil Nadu & Others [2015-3-L.W. 528], wherein in paragraph No.9, the Hon'ble Division Bench of this Court has held as follows:

"9.A careful reading of Section 285 would show that the mere burning of an effigy, by itself, was not made a punishable offence under the IPC. In fact, there is not even a reference in Section 285, IPC to the burning of effigies. Section 285 is actually inserted in Chapter XIV of the IPC, which deals with offences affecting public health, safety, convenience, decency and morals. Section 285 itself is grouped along with offences dealing with negligence. The manner in which Section 285 is worded would show that doing anything with fire or any combustible matter any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person, is made punishable. Therefore, acting rashly or negligently so as to endanger human life or in the manner likely to cause hurt or injury, is a sine qua non for making an act come within the meaning of Section 285."

4.In this case, the statements of the witnesses recorded by the police merely show that the petitioners burnt the effigy of the said leader. There is absolutely no material to show that the act of the petitioners in burning the effigy was likely to cause hurt or injury to any other person nor is there any material to show that they were acting rash and negligently so as to endanger human life. In such view of the matter, there is no prima-facie material to frame charge against the petitioners.

5.In the result, this Criminal Revision Case is allowed and the order dated 19.07.2017, passed by the learned Judicial Magistrate



No.II, Sattur in Cr.M.P.No.2745 of 2017 in S.T.C.No.1773 of 2016 is set aside and the petitioners are discharged from the prosecution. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

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Sub Assistant Registrar

To:

- 1.The Judicial Magistrate No.II,
Sattur.
- 2.The Inspector of Police,
Irukkankudi Police Station,
Irukkankudi,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.M.Kannan, Advocate, SR.No. 57081

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and

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22.03.2018

sj

AM/SKN RSK/SAR 1/05.04.2018/3P/5C