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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.OP Nos.17321 of 2019
and
CrI.MP.No.8704 of 2019

1.R.Rajkumar
2.P.kanagaraja
3.N.Mahalingam
4.R.Kaleshwari
5.M.Bakkiyam
6.A.Prabhu Sebastian Arokiya Samy
7.T.John Christuraj
8.P.Jeyalakshmi
9.M.Sinivasan

.. Petitioners

.Vs.

1.State rep.by
The Inspector of Police,
Tirupur South Police Station,
Tirupur.
(Crime No.974 of 2018)

2.Sivakumar
Special Sub Inspector of Police,
Tirupur South Police Station,
Tirupur.

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the Impugned FIR in Cr.No.974 of 2018 pending investigation on the file of the respondent Police and quash the same.

For Petitioners : Mr.T.Lajapathy Roy

For Respondents : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Cr.No.974 of 2018 registered under Sections 143 & 290 of IPC, against the petitioners.

2. Heard the learned counsel for the petitioners and



the learned Additional Public Prosecutor appearing on behalf of the respondent Police.

3. This Court already had an occasion to consider the very same issue and had quashed the proceedings in CrI.O.P.[MD]. No.3860 of 2019 by an order dated 14.03.2019. The relevant portions of the order is extracted hereunder:

"4. The case of the prosecution is that the petitioners staged the protest against the Government Orders. In the course of agitation, the Government Order namely G.O.Ms.Nos.303 and 234 were alleged to have been burnt by the accused persons. Hence, the complaint has been filed by the second respondent.

5. The learned counsel appearing for the petitioners submitted that on the face of the FIR, no offence is made out and for the offence under Section 285 IPC, there must be fire to endanger human life. Mere burning of a paper even though it may be a Government Order is not likely to endanger human life. There is no indication that the burning of a piece of paper endangers human life.

6. This Court in A.Santhos Yadav .Vs. the Bar Council of Tamil Nadu, Chennai [2015 (40) CTC 317] has held as follows:

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, I.P.C., to the burning of effigies. Section 285 is actually inserted in Chapter XIV of the I.P.C., 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 a manner likely to cause hurt or injury, is a sine qua non for making an act come within the meaning of Section 285."



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7. This Court is in agreement with the above said judgment. Hence, the Impugned FIR in Crime No.2014 of 2018 dated 26.11.2018 pending on the file of the respondent no.1 is quashed and accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed."

4. The above order will squarely apply to the facts of the present case.

5. In the result, the FIR in Cr.No.974 of 2018, is hereby quashed and accordingly this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KP

To

1.The Inspector of Police,
Tirupur South Police Station,
Tirupur.

2.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.17321 of 2019

MP (CO)
CS/28/08/2019