



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2019

CORAM:

THE HONOURABLE **MR. JUSTICE. N. SESHASAYEE**

CrI.O.P. (MD) No.866 of 2019

and

CrI.M.P. (MD) No.365 of 2019

B.Rajendran

: Petitioner / Accused No.1

/Vs./

1.The Sub-Inspector of Police,

Town North Police Station, Dindigul District.

(Crime No.1034 of 2018)

: 1st respondent / Complainant

2.P.Muthamil Selvi

: 2nd Respondent / Defacto

Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C to call for the records pertaining to the First Information Report in Crime No.1034 of 2018 dated 26.11.2018 pending on the file of the respondent no.1 and quash the same as illegal as against the petitioner.

For Petitioner

: Mr.T.Lajapathi Roy

For R-1

: Mr.A.P.G.Ohm Chairma Prabhu

Government Advocate (CrI. Side)

ORDER

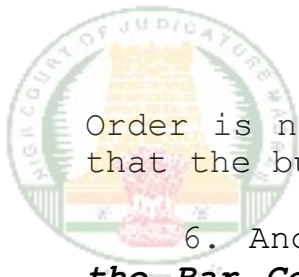
This criminal original petition is filed to quash the FIR in Crime No.1034 of 2018 dated 26.11.2018 pending on the file of the respondent no.1.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (CrI. Side).

3. The petitioner is arrayed as accused no.1 for the offences under Sections 143 and 285 IPC, based on the complaint preferred by the second respondent.

4. The case of the prosecution is that the petitioner staged the protest against the Government Orders. In the course of agitation, the Government order namely G.O.Ms.No.303 is alleged to have been burned by the accused person. Hence, the complaint has been filed by the second respondent.

5. The learned counsel appearing for the petitioner 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. Another learned Judge of 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."

7. This Court is in agreement with the above said judgment.

Hence, the impugned FIR in Crime No.1034 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.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Sub-Inspector of Police,
Town North Police Station, Dindigul District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Cr1.O.P. (MD) No.866 of 2019