



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P(MD)No.9889 of 2017

and

CRL.M.P(MD)No.6735 of 2017

1.Krishnamoorthy
2.Muniyandi
3.Pullipandi
4.Velmurugan
5.Chandrasekar
6.Periyasamy
7.Arumugam, S/o Thattiyan,
8.Arumugam, S/o Periyakaruppan,
9.Malairaj, S/o Mayalagu,
10.Malairaj, S/o Chinnalu, .. Petitioners/Accused Nos.1 to 10

Vs.

1.State through
The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District. .. Respondent/De-jure Complainant
2.Chenguttuvan .. Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records connected with the case in S.T.C.No.149 of 2017, pending on the file of the Honourable District Munsif cum Judicial Magistrate, Ilayangudi and quash the same as illegal.

For Petitioners : Mr.S.Malaikani
For Respondents : Mr.K.Suyumbulinga Bharathi for R1
Government Advocate (Crl. Side)
R2 - No Appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the S.T.C.No.149 of 2017 on the file of the District Munsif cum Judicial Magistrate, Ilayangudi in Cr.No.81 of 2015 registered under Section 143, 188, 285 & 290 of IPC, against the petitioners.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. side) 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 Crl.O.P.[MD].No.1840 of 2019 by an order dated 22.02.2019. 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. 234 and 303 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 finds merit in the submission of the learned counsel appearing for the petitioners. Hence, the impugned FIR is quashed as against the offences under Sections 143 and 285 IPC only and accordingly, this criminal original petition is partly allowed. Consequently, connected miscellaneous petition is closed."

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

5. The FIR registered under Section 188 of IPC is not maintainable in view of the judgment of this Court in **Jeevanandham and Others .Vs. State rep.by Inspector of Police, and Another** reported in [2018 2 LW (Cr1.) 606]

6. Insofar as Sections 284 and 290 of IPC are concerned the offence has not been made out and these are not cognizable offence, for which an FIR has been registered even without appropriate orders passed under Section 155 of Cr.P.C.

7. In the result, the S.T.C.No.149 of 2017 on the file of the District Munsif cum Judicial Magistrate, Ilayangudi, is hereby quashed and accordingly this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

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To

- 1.The District Munsif cum Judicial Magistrate, Ilayangudi.
- 2.The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P(MD)No.9889 of 2017

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VB(08.11.2019) 3P 4C