



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.12633 of 2021

and

Crl.MP(MD)Nos.6436 & 6437 of 2021

1.Ponraj

2.S.M.S.Subramanian

... Petitioners/Accused No.1 & 3

Vs.

1.The Inspector of Police,
Seithur Police Station,
Virdhunagar District.
(Crime No.323/2017)

... Respondent/Complainant

2.Ganapathy

... Respondent/Defacto

Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the entire records pertaining to the case in S.T.C.No.428 of 2021 pending on the file of the learned Judicial Magistrate, Rajapalayam and quash the same.

For Petitioners : Mr.N.Balasubramanian

For R1 : Mr.K.Sanjai Gandhi

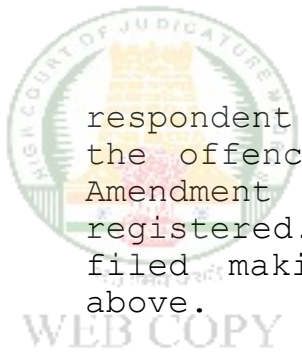
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to quash the case in S.T.C.No.428 of 2021 pending on the file of the learned Judicial Magistrate, Rajapalayam.

2.The case of the prosecution in brief:-

On 12.09.2017, at about 04.00 p.m, when the defacto complainant namely, the trainee Sub Inspector of Police and his party was on their routine patrol and at that time, the group of people, who are arrayed as accused in this case, unlawfully assembled near Kottai Vinayagar Temple, Five Shop Bazzar, Seithur, raised slogans against the then Chief Minister. On the basis of the complaint, given by the



respondent herein, a case in Crime No.323 of 2017 was registered for the offence under Sections 285 of IPC & 7(1)(a) of Criminal Law Amendment Act, 2005 & 74 of TN City Police Act, 1888, was registered. After completion of investigation, final report was filed making allegation, against the petitioners, as mentioned above.

3. Seeking quashment of the final report, this petition is filed mainly on the ground that Section 285 IPC cannot be invoked in the light of the allegation, made against the petitioner.

4. Heard both sides.

5. We will straightaway go through the judgment cited by the learned counsel for the petitioner since the issue is very simple. The petitioners along with others burnt the effigy of the then Chief Minister. So, the offence under Section 285 IPC was invoked. The learned counsel for the petitioner would rely upon the judgment of this Court reported in **A.Santhos Yadhav Vs. The Bar council of Tamil Nadu and Others 2015 (3) L.W 528, dated 19.06.2015**. Wherein, the Hon'ble Division Bench of this Court, dealt with similar issue. In that case, the political leader effigy was burnt near the bus stand at Thirukoilur, making protest against the conviction of the then Chief Minister of Tamilnadu. This Court, discussed the offence under Section 285 IPC in elaborate manner. The Hon'ble Division Bench has concluded that burning of effigy is not made an offence under the penal code. But, Section 285 IPC deals with the case of negligent nature and dealing with fire or any combustible matter. So, according to the Hon'ble Division Bench, acting rashly or negligently so as to endanger human life, or in a manner likely to cause hurt or injury, is a sine qua for making an act come within the meaning of Section 285 IPC.

6. But, nowhere, either in the First Information Report or in the Final Report, it has been stated to the effect that the petitioners negligently acted in a manner endanger to human life while dealing with the fire and combustible matter.

7. In the facts and circumstances of the case, I am of the considered view that the offence under Section 285 IPC cannot be invoked. Because of the petitioners alleged to have burnt the effigy of the then Chief Minister making more protest regarding their political issue. Another factor is that the co-accused namely, Murugaiah Pandian moved the petition before this Court by filing Crl.OP(MD)No.13442 of 2017. In that case, Since First Information Report has been quashed infavour of the the above said Murugaiah Pandian/co-accused. So, the continuation of criminal proceedings against the petitioners herein also will become clear abuse of the process of the Court and law. So, the petition is liable to be allowed.



8. In the light of the above discussion, case in S.T.C.No.428 of 2021, pending on the file of the learned Judicial Magistrate, Rajapalayam, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate,
Rajapalayam.
- 2.The Inspector of Police,
Seithur Police Station,
Virdhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.12633 of 2021

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RD(27.09.2021) 3P 4C