



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.2049 of 2022
and
Crl.M.P. (MD)No.1505 of 2022

Mohamed Asik Ali @ Mohamed Asik ... Petitioner

Vs.

1.The State rep by,
The Inspector of Police,
Eruvadi Police Station,
Tirunelveli.
(Crime No.198 of 2007)

2.M.Murugan,
Village Administrative Officer,
Puliyoorkurichi,
Tirunelveli

... Respondents/
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in C.C.No.255 of 2017 on the file of the learned Judicial Magistrate, Nanguneri and quash the same as illegal so far as the petitioner is concerned.

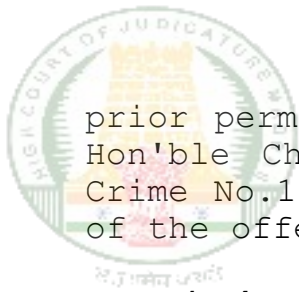
For Petitioner : Mr.K.Navaneetharaja
For Respondents : Mr.E.Antony Sahaya Prabahar,
Addl. Public Prosecutor.

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

2.The petitioner is facing trial in C.C.No.255 of 2017 on the file of the Judicial Magistrate, Nanguneri for the offences under Sections 143 and 188 of IPC and Section 4 of Tamilnadu Open Places (Prevention of Disfigurement) Act, 1959.

3.The case of the prosecution is that on 02.11.2007 at around 05.30 pm, the accused had assembled in public without getting any
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prior permission from the authorities and burnt the effigy of then Hon'ble Chief Minister of Gujarat. This led to registration of Crime No.198 of 2007. It was later charge sheeted and cognizance of the offences was also taken.

4.The respondent police could not have registered an FIR for the offence under Section 188 of IPC. One can take judicial notice of the fact that persons belonging minority organisations were periodically holding agitations and meetings condemning the riots that took place following infamous Godhra incident at Gujarat. Admittedly, the accused did not indulge in any act of violence. As regards the burning of effigy, the issue is squarely covered by the decision of the Hon'ble Division Bench of this Court reported in 2015-3-LW 528 (A. Santhos Yadav Vs. Bar Council of Tamil Nadu and Others) and the order passed by this Court in Crl.O.P.(MD)No.18504 of 2021 dated 06.12.2021. The impugned proceedings stand quashed and the criminal original petition is allowed. The benefit of this order will enure in favour of the non-petitioning accused also. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Nanguneri.

2.The Inspector of Police,
Eruvadi Police Station, Tirunelveli.

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

Crl.O.P (MD)No.2049 of 2022
02.02.2022

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