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CRL.O.P.No.10039 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.10039 of 2023
and CRL.M.P.No.6609 of 2023

V.Marx @ Arun Kumar

... Petitioner

Vs.

State Rep. by

1.The Inspector of Police,
B-4 Race Course Police Station,
Coimbatore.

2.The Sub-Inspector of Police,
B-4 Race Course Police Station,
Coimbatore.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the entire records connected with the case in STC.No.2136 of 2013 on the file of the learned Judicial Magistrate No.III, Coimbatore and quash the case insofar as the petitioner is concerned.

For Petitioner : Mr.C.Rajaguru

For Respondents : Mr.N.S.Suganthan
Government Advocate (Crl. Side)



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ORDER

This petition has been filed to quash the STC.No.2136 of 2013 on the file of the learned Judicial Magistrate No.III, Coimbatore. The petitioner is arraigned as fifth accused.

2. The case of the prosecution is that on 26.11.2012 at about 12.15 p.m., 18 members belonging to the Tamil Pulikal Party were unlawfully assembled in front of Indian Red Cross Building, Hosur Road, Coimbatore. Subsequently, they also burnt the effigy of Dr.Ramadas, Fourder of Patalli Makkal Katchi. Hence, the First Information Report.

3. After completion of investigation the respondents filed final report and the same has been taken cognizance in STC.No.2136 of 2013 on the file of the learned Judicial Magistrate No.III, Coimbatore for the offences under Sections 148 and 285 of IPC.

4. In order to attract offence under Section 148 of IPC, it is the settled law that rioting, armed with deadly weapon, whereas even



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according to the case of the prosecution, the petitioner did not involve in any riot by using such deadly weapon. There is also no evidence in order to prove the same. Even in the FIR the respondents failed to mention the weapons which are allegedly possessed by the accused persons.

5. On a perusal of the final report also revealed that there is no material in order to attract the charge under Section 148 of IPC. Further more, burning of an effigy by itself would not amount to offence, unless it is proved that such burning was likely to cause hurt or injury to any other persons. It is relevant to extract the provisions of Section 285 of IPC.

285. Negligent conduct with respect to fire or combustible matter.—Whoever does, 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, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,



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shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

6. Thus it is clear that doing anything with fire or combustible matter, any act so rashly or negligently as to endanger human life or likely to cause hurt or injury to other persons is made punishable. Therefore, acting rashly or negligently so as to endanger human life or in the manner likely to cause hurt or injury is a *sine qua non* for making an act come within the meaning of Section 285.

7. In the case on hand, mere burning of effigy of a political leader would not attract the offence under Section 285 IPC. That apart, no one had spoken about the accused persons were in possession of any burning materials such as Kerosine Can or any substances in order to attract the offence. Therefore, the entire proceedings as against the petitioner cannot be sustained and it is liable to be quashed.



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8. Accordingly, STC.No.2136 of 2013 on the file of the learned Judicial Magistrate No.III, Coimbatore is quashed as against the petitioner and this Criminal Original Petition is **allowed**. Consequently, connected miscellaneous petition is closed.

04.05.2023

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order

dsa/jv

To

1.The Judicial Magistrate No.III, Coimbatore

2.The Inspector of Police,
B-4 Race Course Police Station,
Coimbatore.

3.The Sub-Inspector of Police,
B-4 Race Course Police Station,
Coimbatore.

4. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
dsa/jv

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