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Crl.O.P.(MD)No.19811 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07/11/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP (MD)No.19811 of 2023

1.Madasamy
2.S.Chinna Baskaran
3.N.Manimaran
4.N.Mahendran : Petitioners/A1, A3 to A5

Vs.

1.State rep. by,
Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.
In Crime No.23 of 2019 : R1/Complainant

2.Tmt.N.Vimala,
The Commissioner,
Rajapalayam Municipality,
Virudhunagar District. : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for records in the case in STC No.535 of 2015 on the file of the Judicial Magistrate Court, Rajapalayam, Virudhunagar District and quash the same as illegal, violation of law as against the petitioners/Accused Nos. 1,3 to 5.

For Petitioners : Mr.M.Jothi Basu

For Respondents : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



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O R D E R

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This criminal original petition has been filed seeking quashment of the case in STC No.535 of 2025 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar District.

2.The case of the prosecution in brief:-

The de-facto complainant, who is working as a Commissioner of Rajapalayam Municipality lodged a complaint stating that on 11/01/2015, when she was visiting the Rajapalayam Municipal area for taking various steps to control the viral fever, the accused persons have grown pigs in their area and left to wander it without any precautionary measures. On the basis of the complaint given by the de-facto complainant, a case in Crime No.23 of 2015 was registered for the offences under sections 270, 278 and 289 IPC. After completing the investigation, final report was filed and it was taken cognizance in STC No.535 of 2015 by the Judicial Magistrate, Rajapalayam.

3.Seeking quashment of the same, this petition has been filed by the petitioners on the sole ground that none of the allegations mentioned in FIR or in the final



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report attract any of the ingredients of the offences as alleged against them.

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4.Heard both sides.

5.Insofar as the offence under section 270 of IPC is concerned, whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life. As stated supra, mere possession of the cattle would not amount to any malignant act. Therefore, the offence under section 270 of IPC is not at all attracted as against the petitioners.

6.Section 289 of IPC reads as under:-

"289.Negligent conduct with respect to animal.—Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, 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."



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7. Section 289 of IPC can be invoked if the accused had conducted themselves in a negligent manner and there is danger to human life from the animal.

8. Section 278 of IPC reads as under:-

"278. Making atmosphere noxious to health.—Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

9. But apparently, the animal have not caused any grievous hurt to any one and the petitioners did not involve in the humiliation of animal and there is no statement recorded by the Police that animals caused any grievous hurt to any one of the persons in the villages and also there is no evidence collected by the prosecution for humiliating the animals. Under these circumstances, I find that the continuation of criminal proceeding is abuse of process of law. Under these circumstances, having the criminal proceedings against the petitioners is abuse of process of law.



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10.For the above stated reasons, this criminal original petition is **allowed**. The case in STC No.535 of 2015 on the file of the Judicial Magistrate Court, Rajapalayam, Virudhunagar District is hereby quashed as against the petitioners.

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Index:Yes/No
Internet:Yes/No
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To,

- 1.The Judicial Magistrate,
Rajalapalayam,
Virudhunagar District.
- 2.The Inspector of Police,
Rajalapalayam North Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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