



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.8335 of 2020

and

Crl.M.P. (MD)No.3954 of 2020

WEB COPY

Dr.M.S.Jackson

...Petitioner/Solo Accused

Vs.

1.State Rep. by

The Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari District.

(Crime No.354 of 2020)

...1st Respondent/Complainant

2.Dr.John Britto,

Joint Director,
Medical and Rural Health Service,
Nagercoil,
Kanyakumar District.

...2nd Respondents /Defacto
Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in Crime No.354 of 2020, on the file of the first respondent police and quash the same.

For Petitioner

: Mr.T.A.Ebenezer

For R1

: Mr.APG.Ohm Chairma Prabhu

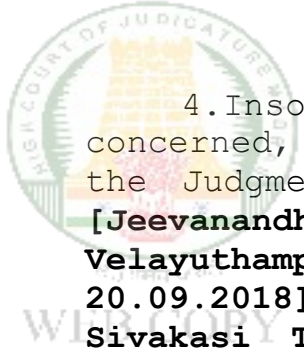
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed by the petitioner seeking to quash the proceedings pending against him in Crime No.354 of 2020, on the file of the first respondent police, for the offences under Sections 188 and 505(1)(b) of I.P.C. and Section 3 of the Epidemic Diseases Act, 1897 and Section 67 of the Information Technology Act, 2020.

2.The learned counsel appearing for the petitioner would submit that the facts of the case are exactly similar to the case covered in the decision reported in **2018 (2) LW (Crl.) 606 [Jeevanandham and others vs. The Inspector of Police Velayuthampalayam Police Station, Karur District, decided on 20.09.2018]** and in the case of **Sri Raja vs. Inspector of Police, Sivakasi Town Police Station, Virudhunagar District and another [Crl.O.P(MD)No.7922 of 2019 etc. batch, decided on 30.08.2019]**.

3.Heard the learned Government Advocate (Criminal side) appearing for the first respondent and perused the materials on record.



4.Insofar as the offence under Section 188 of I.P.C. is concerned, the facts of this case is similar to the facts covered by the Judgment of this Court reported in **2018 (2) LW (Cr1.) 606 [Jeevanandham and others vs. The Inspector of Police, Velayuthampalayam Police Station, Karur District, decided on 20.09.2018]** and in the case of **Sri Raja vs. Inspector of Police, Sivakasi Town Police Station, Virudhunagar District and others [Cr1.O.P.(MD)No.7922 of 2019 etc. batch, decided on 30.08.2019]**.

5.Insofar as the offence registered under Section 505(1)(b) of I.P.C. is concerned, the averments set out in the F.I.R. do not disclose the fact that the petitioner is having an intention to cause or is likely to cause fear or alarm to the public or induced any person to commit an offence against the State or against the public tranquillity.

6.Insofar as the offence under Section 3 of the Epidemic Diseases Act, 1897 is concerned, the same is nothing but an offence related to Section 188 of I.P.C.

7.Finally, in respect of the offence under Section 67 of the Information Technology Act, in the F.I.R., it has been stated that the petitioner herein had posted a video in social media criticizing the precautionary steps taken by the Government to prevent COVID-19. He has specifically stated in the video that COVID-19 is not a serious one. Further, our Hon'ble Apex Court did not accept the Government's request for prior censorship of COVID-19 news. Being the Doctor by profession, the petitioner is entitled to publish his own thoughts in respect of COVID-19. Therefore, it cannot be said that the petitioner had committed an offence under Section 67 of the Information Technology Act and hence, registering the case against him for the said offence, is nothing but clear abuse of process of law.

8.Considering the facts and submissions, the proceedings in Crime No.354 of 2020, on the file of the first respondent police, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

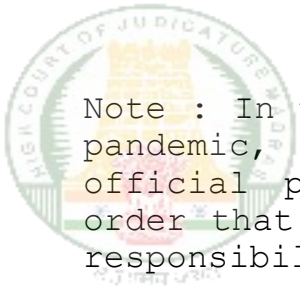
Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Smn2



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.

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- 1.The Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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12.08.2020

KB(19.08.2020) 3P 3C