



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P (MD) No.15421 of 2020

and

Crl.M.P. (MD) No.7505 of 2020

Nijamalikhan

..Petitioner/Accused No.1

Vs

1.The State represented by
The Inspector of Police,
S.S.Colony Police Station,
Madurai City, Madurai.
(In Crime No.1261 of 2020)

..1st Respondent/Complainant

2.Dhilipan

..2nd Respondent/Defacto
Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the entire records pertaining to the impugned first information report in Crime No.1261 of 2020 on the file of the first respondent police station and quash as against the petitioner concerned as illegal.

For Petitioner : Mr.R.Karunanidhi

For R1 : Mr.V.Neelakandan

Additional Public Prosecutor (Crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the impugned First Information Report in Crime No.1261 of 2020, on the file of the 1st respondent.

2.The learned counsel for the petitioner would state that based on the complaint given by the 2nd respondent herein alleging that the petitioner along with others had gathered and conducted prayer at Ansari Nagar Mosque on 20.05.2020, without getting proper permission and thereby they violated the social distance during this COVID-19 pandemic situation, a case in Crime No.1261 of 2020 has been registered against the petitioner and others for the offences under Sections 151, 143, 188, 341, 290, 269 IPC and Section 71A(1) and 73 of the Tamil Nadu City Police Act, 1888. The learned counsel would further state that on the face of FIR, it does not make out any offence and therefore, he prays for quashing the FIR.



3.The learned Additional Public Prosecutor, on instructions, would state that without getting proper permission, the petitioner along with others had conducted a prayer in the above mosque, without maintaining social distance norms, during the COVID-19 pandemic situation and also caused disturbance to the free flow of public and he would fairly submit that no violence or untoward incident had taken place.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor (Crl.side) for the 1st respondent.

5.Admittedly, the petitioner had conducted a prayer in the mosque during the pandemic period. Though *prima facie* case was made out for registering the FIR, the continuation of the same is not warranted in the present circumstances as the petitioner conducted only prayer in the mosque and even as per the statement of the learned Additional Public Prosecutor, there is no violence and any untoward incident had taken place and therefore, the continuation of prosecuting the petitioner for the above offences is only a futile exercise and therefore, I am inclined to quash the FIR.

6.Accordingly, the impugned First Information Report in Crime No.1261 of 2020, on the file of the 1st respondent is quashed and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Rmk

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 Inspector of Police,
S.S.Colony Police Station,
Madurai City, Madurai.



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

Crl.O.P(MD)No.15421 of 2020

NA (CO)

NR (09/02/2021) 3P : 3C