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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.12624 of 2021

and

CRL.M.P.No.7001 of 2021

Varunan @ Varun

... Petitioner

Versus

The State Rep. by
The Sub-Inspector of Police
Sirkazhi Police Station,
Nagapattinam.
(In Crime No.1004 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.1004 of 2020 on the file of the respondent police and quash the same and pass any other orders as this Court may deem fit and necessary in the circumstances of the case and thus render justice.

For Petitioner : Mr.A.Raja Mohamed

For Respondent : Mr.A.Damodaran
Government Advocate (Crl.Side)

O R D E R

The petitioner, who is an accused in Crime No.1004 of 2020 for the offence under Sections 188 and 269 IPC has filed this quash petition.

2. The gist of the case is that on 13.06.2020, at about 11.15 am, despite the prohibitory order under Section 144 Cr.P.C. was in force, the petitioner was roaming on the streets in his Passion Pro bike bearing Registration No.TN-31-AR-8975.



Hence, the respondent Police registered a case in Crime No.1004 of 2020 for the offence under Sections 188 and 269 IPC, as against which, the present quash petition is filed.

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3. The contention of the petitioner is that his wife was working in the Puthur Government College. On 13.06.2020, when the petitioner went to the said College to pick up his wife back home, the respondent Police asked the petitioner to stop the vehicle. He stopped the vehicle and explained the reason as to why he came out of his house. However, the respondent police without having any patience to listen to him has registered this false case.

4. The learned counsel for the petitioner submitted that the petitioner is a law abiding citizen. He went out of his house only to pick his wife from the College. In such case, implicating the petitioner under this offence is void ab initio. The petitioner had not indulged in any activity of spreading the disease to others, hence, the FIR is liable to be quashed.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that the government had implemented prohibitory order under Section 144 Cr.P.C. due to Corona Pandemic. The respondent police also warned the petitioner not to roam in the streets. In spite of the warning, he was roaming in the streets and involved in the spreading of Corona virus. Hence, the complaint came to be registered against the petitioner.

6. This Court considered the rival submissions and perused the materials available on record.

7. On a perusal of records and submissions of both sides, it is seen that on 13.06.2020, the petitioner went out of his house to pick his wife back home from the College, where she was working. While prohibiting order is in force under Section 144 Cr.P.C., a case can be registered only if a person indulges in the act to believe that the disease can be spread to others. But in this scenario, the petitioner went out to fulfill his needs and as such, there is no possibility to believe about the spread of disease. The offence is not made out because the petitioner did not indulge in any activity that may spread disease to others. Hence, this Court is inclined to allow this petition.



8. In the result, the impugned order in Crime No.1004 of 2020, dated 13.06.2020 on the file of the respondent is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

dna

To

1. The Sub-Inspector of Police
Sirkazhi Police Station,
Nagapattinam.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.12624 of 2021
and
CRL.M.P.No.7001 of 2021

PA (CO)
K.RK. (03.09.2021)