



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18808 of 2021

and

CrI.M.P.No.10337 of 2021

Sanjay

... Petitioner

Versus

State by:

The Sub Inspector of Police,
Manavalanagar Police Station,
Tiruvallur - 602 002

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings as against the petitioner in Crime No.1455 of 2020, pending on the file of the respondent.

For Petitioner : Mr.M.Mohamed Riyaz

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This petition has been filed to quash the First Information report in Crime No.1455 of 2020, dated 05.07.2020 on the file of the respondent police.

2. The case of the prosecution is that during the pandemic period, while the Government's Prohibitory Order under Section 144 Cr.P.C. was in force, the petitioner was roaming around the area in his two wheeler bearing Reg.No.TN 20 CQ 5224. So, on the basis of the complaint given by the Sub Inspector of Police, Manavala Nagar Police Station, a case has been registered against the petitioner for the offences punishable under



Sections 188 and 269 of IPC r/w. Section 51 of Disaster management Act 2005.

3. The learned counsel for the petitioner would submit that Section 188 IPC is a non-cognizable offence and the police has no right to register the case and Section 269 IPC is concerned, there is no intention on the part of the petitioner to spread the disease to another and simply he was riding the two wheeler in that area. Hence, the Crime No.1455 of 2020 pending on the file of the respondent police is liable to be quashed.

4. Heard both sides and perused the materials available on records carefully.

5. In the Judgment reported in the case of Jeevanandhan and others /vs/ State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another reported in 2018(2) L.W. (Crl.) 606 , it has been held that the police has no right to file a case under Section 188 IPC and to investigate the same without getting proper permission from the concerned jurisdictional Magistrate. Here, there is no material to show that before registering the case, permission of the concerned jurisdictional Magistrate has been obtained. In such circumstances, the respondent has no right to register the case and to investigate the matter. A detailed guideline has been issued by this Court in the judgment cited supra. On this aspect, Section 188 IPC will not stand against the petitioner.

6. The offence under Section 269 IPC r/w. Section 51 of Disaster Management Act, 2005 is concerned, as per the contents of the First Information Report, it is seen that the petitioner was simply riding a two wheeler. It is a trivial matter , in which, no offence of grievous nature is involved. Even though Section 144 of Cr.P.C. order was in force during the relevant time, the respondent police ought to have warned the petitioner to go in-door, instead of that, they filed a case. It is also not the case of the respondent that at the time of the incident, the petitioner was affected by Covid-19. So, the contention that riding along the street during the pandemic period though may be wrong, considering the nature of allegations and offences involved in this case, this Court is of the considered view that riding along the street in a two wheeler should not be a reason for spoiling the future of the petitioner. Un-intended casual act should not take away the future of the petitioner. More over, it is also brought to the notice of this Court that the Government is proposed and committed to drop all these cases, which have been registered during the pandemic period against the public. Taking all these aspects into account, this Court is of the considered view that the First Information Report in Crime No.1455 of 2020 on the file of the respondent is liable to



be quashed.

7. Accordingly, the case in Crime No.1455 of 2020 on the file of the respondent police is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Sub Inspector of Police,
Manavalanagar Police Station,
Tiruvallur - 602 002
2. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Mohamed Riyaz, Advocate, S.R.No.54468

CRL.O.P.No.18808 of 2021
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VSN-II (CO)
SU (24/11/2021)