



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.21176 of 2021

Arun Karthik Sambandam

...Petitioner/Accused

Vs.

The State Rep. by,
The Inspector of Police,
Thiruppapuliur Police Station,
Cuddalore District.
(Crime No.704 of 2020 U/Sec.188 & 271 IPC)

...Respondent/Compalinant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the Crime No.704 of 2020 under Sec.188 & 271 of IPC on the file of respondent Police.

For Petitioner : Mr.Aarokia Satheesh

For Respondent : Mr.S.Vinothkumar,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.704 of 2020, dated 16.06.2020 on the file of respondent Police.

2.The gist of the case is that on 16.06.2020, at about 04.50 p.m., despite the prohibitory order under Section 144 Cr.P.C., was in force, the petitioner was roaming without wearing mask near Thirupathiripuliyur village. Hence, the respondent Police secured him and registered a case in Crime No.704 of 2020, for the offence, under Sections 188 and 271 IPC.

3.The learned counsel for the petitioner submitted that the petitioner has completely unaware of the impugned FIR registered against him. At the time of passport verification only, he knows about the said FIR is pending with respect to the lock down violation. The learned counsel for the petitioner further submitted that the petitioner is a law abiding citizen, he has not involved in any offence as alleged by the respondent police. 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 and hence, the FIR is liable to be quashed.

4.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the Government had passed prohibitory order under Section 144 Cr.P.C., due to Corona Pandemic. Despite warning of the respondent Police, the petitioner unnecessarily roamed in and around the village without any reason and involved in spreading of Corona virus. Hence, the FIR came to be registered against the petitioner.

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

6.On a perusal of records and submissions of both sides, it is seen that on 16.06.2020, the petitioner went out without any reason, while prohibiting order was 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 family needs and as such, there is no possibility to believe about the spread of disease through the petitioner. 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.

7.In the result, the impugned FIR in Crime No.704 of 2020, dated 16.06.2020, on the file of the respondent Police is quashed. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Thiruppapuliur Police Station,
Cuddalore District.
2. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.21176 of 2021

GSM(CO)
RGA(07/12/2021)