



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.3101 of 2021

and

Crl.M.P(MD) No.1691 of 2021

G.Arunkumar

...Petitioner/Sole Accused

Vs.

The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.
(Crime No.276 of 2019)

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned Charge Sheet in S.T.C.No.144 of 2020 on the file of the learned Judicial Magistrate Court, Ambasamudram and to quash the same.

For Petitioner

:Mr.M.R.Sreenivasan

For Respondent

:Mr.R.Srinivasan

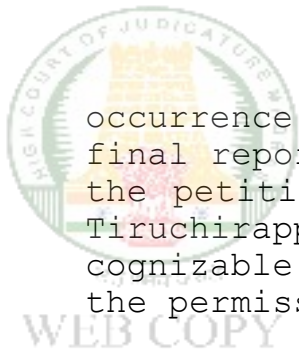
Government Advocate(crl.side)

O R D E R

This petition has been filed seeking quashment of the Charge Sheet in S.T.C.No.144 of 2020 on the file of the learned Judicial Magistrate Court, Ambasamudram.

2.The case of the prosecution is that on 25.11.2019 at about 01.00 p.m., when the respondent police was in patrol service nearer to the bus stop of Jammen Singampatti. The petitioner alleged to have made public nuisance and the respondent police warned the petitioner. In spite of that he did not obey the order of the police and continued to give nuisance to the public. On the basis of the complaint given by the Sub Inspector of Police namely, Anthony Savarimuthu, a case in Crime No.276 of 2019 under Section 291 of I.P.C. has been registered and after completing the investigation, a final report was filed alleging that the petitioner has committed offence punishable under Section 291 of I.P.C.

3. Seeking quashment of the final report, this petition came to be filed by the petitioner, mainly on the ground that no such



occurrence took place as stated by the respondent police in the final report. Moreover, on the alleged date and time of occurrence, the petitioner was attending the class at Periyar E.V.R. College, Tiruchirappalli and the offence under Section 291 of I.P.C., is non-cognizable offence and the police took up the investigation without the permission of the concerned Magistrate.

4. Heard both sides and perused the materials placed on record.

5. It is the specific case of the respondent police that on 25.11.2019 at about 01.00 p.m., the petitioner was making public nuisance near Jameen Singampatti. So, the petitioner was arrested and the case was also registered. Whether the petitioner was present in the place of occurrence on that particular date and time and whether he was attending the class in Periyar E.V.R. College, Tiruchirappalli, cannot be a matter for discussion in this petition. Only Section 290 of IPC will be attracted and not Section 291 of IPC. The only ground that can be advanced in this petition is that the offence under Section 291 of I.P.C., is the non-cognizable offence. When that being so, the police ought to have registered a case with proper permission from the concerned Judicial Magistrate and this position has been clarified by this Court in Crl.O.P(MD) No.3776 of 2020, dated 28.02.2020, in the case of ***A.Kamaraj and others Vs the Inspector of Police, Serndhamaram Police Station, Tirunelveli District and others***, wherein on the similar question the learned Single Judge of this Court has held that the offence under Section 290 of I.P.C is non-cognizable and the police official cannot register the First Information Report without prior permission from the concerned Judicial Magistrate and investigate the matter and file a final report. No contrary view is brought to my notice by any other Court. So, I am of the considered view that on this sole ground, the case in S.T.C.No.144 of 2020 is liable to be quashed.

6. In the result, this Criminal Original Petition is allowed and the impugned Charge Sheet in S.T.C.No.144 of 2020 on the file of the learned Judicial Magistrate, Ambasamudram, stands quashed. Consequently, connected miscellaneous petition is closed.

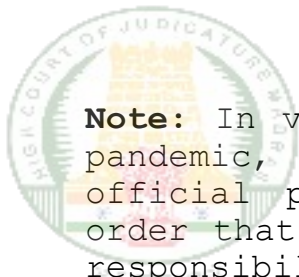
Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)



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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To:

- 1.The Judicial Magistrate, Ambasamudram.
- 2.The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-16110[F] dated 16/04/2021)

Crl.O.P. (MD)No.3101 of 2021

16.04.2021

RP (26.05.2021) P 5C