



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGO VAN**
Crl.O.P.(MD)No.6327 of 2021
and
Crl.M.P.(MD)No.3638 of 2021

P.Arunpandi

... Petitioner

Vs.

1.The State by
The Inspector of Police,
Koodakovil Police Station,
Madurai District.
(Crime No.360 of 2020)

2.A.Veerasolai,
The Sub Inspector of Police,
Koodakovil Police Station,
Madurai District.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records pertaining to the First Information report in Crime No.360 of 2020 on the file of the first respondent police and quash the same.

For Petitioner : Mr.Dinesh.K

For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the F.I.R in Crime No.360 of 2020 pending on the file of the first respondent.

2. The case of the prosecution is that on 17.05.2020, at about 03.50 p.m, the petitioner violated 144 curfew imposed by the government by roaming near Uppligundu Irullai Amman Temple, Melauppligundu without wearing mask. When defacto complainant asked the reason, he failed to answer the same, since curfew was in force, a case has been registered in Crime No.360 of 2020 for the offences punishable under Sections 188, 269 and 270 of IPC.

3. Seeking quashment of the First Information Report, this
<https://hcservices.ecourts.gov.in/hcservices/>



petition is filed, mainly on the ground that none of the allegations mentioned in the First Information Report, attract any of the offences against this petitioner.

4. Heard both sides.

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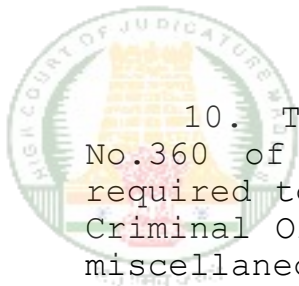
5. The common and judicial notice has also been taken into account that due to the pandemic situation, on 24.03.2020, throughout the Tamilnadu, curfew has been imposed, under Section 144 Cr.P.C for the purpose of controlling the spread of Covid - 19 virus. At that time, this petitioner was found roaming near Uppligundu Irullai Amman Temple, Melauppligundu without wearing mask. No doubt that the petitioner was defying the curfew imposed by the government.

6. But, however, it is seen that the offence under Section 188 IPC is non cognizable offence. In respect of which, First Information Report has been filed by the police and this position has been settled by this Court in the judgment reported in **2018 2 LW (crl) 606 Jeevanandham and other Vs. Inspector of Police, Sivakasi Town Police Station, Virudhunagar District]**, dated 20.09.2018. So, Section 188 IPC cannot be made applicable, since police has no power to register the case under Section 188 IPC.

7. Next allegation is that he was roaming around the area, which leads to spread the disease. No proper reason has been given by the petitioner for roaming near Uppligundu Irullai Amman Temple, Melauppligundu without wearing mask, but that cannot be considered that it caused spread of the disease. So, the casual outings, cannot be construed an offence under Sections 269 and 270 IPC.

8. The learned counsel for the petitioner submitted that the petitioner has to attend Tamilnadu Uniformed Services Recuritment Board for physical examination on 26.07.2021. If the petitioner is selected for medical fitness test, his future may be spoiled, due to this Criminal Case. The call letter is also enclosed along with the typed set of papers. It is seen that because of the pendency of this case, verification is also pending. Considering the fact that for a petty offence involved in an unintentional roaming around a place should not cost the future life of the petitioner. This aspect is also taken into account in this matter.

9. Moreover, it can also be taken judicial notice that the case filed during the pandemic period is going to be dropped by the government. So, considering this fact also, nothing is going to be served by prosecuting the case in Crime No.360 of 2020, against the petitioner.



10. Taking totality of the circumstance, the FIR in Crime No.360 of 2020, on the file of the first respondent police is required to be quashed and accordingly, the same is quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
Koodakovil Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.6327 of 2021
19.07.2021

RD(30.07.2021) 3P 3C