



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.04.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P.(MD)No.6123 of 2021

and

Crl.M.P(MD) No.3520 of 2021

Chandran

... Petitioner

Vs.

1. The State Rep. By
The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.

2. S.Murugesh

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the F.I.R. In Crime No.81 of 2021 pending on the file of the Inspector of Police, Kallidaikurichi Police Station, Tirunelveli District and quash the same.

For Petitioner : Mr.S.Elumalai
For Respondent : Mr.R.Srinivasan
Government Advocate(crl.side)
For R1.

O R D E R

This petition has been filed seeking quashment of the F.I.R in Crime No.81 of 2021 on the file of the Inspector of Police, Kallidaikurichi Police Station, Tirunelveli District.

2.The case of the prosecution is that on 14.02.2021, when the defacto complainant was indulging in his regular patrolling duty, the petitioner is said to have caused hindrance to the general public by uttering bad words. On the basis of the complaint given by the Sub Inspector of Police, namely, S.Murugesh, a case in Crime No.81 of 2021 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 as far as the overt act attributed as against him is concerned, the same would not mulct him into the criminal liability and the offence under Section 291 of I.P.C., but only Section 290 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



14.02.2021, the petitioner was making public nuisance near Jameen Singampatti. So, the petitioner was arrested and the case was also registered. The only ground that can be advanced in this petition is that the offence under Section 290 of I.P.C., is 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 CrI.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 offences under Sections 290 of I.P.C are 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 Crime No.81 of 2021 is liable to be quashed.

6. In the result, this Criminal Original Petition is allowed and the F.I.R in Crime No.81 of 2021 on the file of the Inspector of Police, Kallidaikurichi Police Station, Tirunelveli District stands quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /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.

To

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

CrI.O.P. (MD)No.6123 of 2021

29.04.2021

SE

RS (09.08.2021) 2P-3C