



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

CORAM :

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THE HONOURABLE **Mr. JUSTICE G.ILANGO VAN**

Crl.O.P.(MD)No.9150 of 2021
and Crl.M.P(MD)No.4678 of 2021

C.Manikandan ... Petitioner/Sole Accused
Vs.

The Sub- Inspector of Police,
Puthiamputhur Police Station,
Thoothukudi District ... Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the FIR in Crime No.201 of 2020 on the file of the respondent and quash the same as illegal.

For Petitioner : Mr.Banuprasath
For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This petition is filed seeking a direction to quash the First Information Report in Crime No.201 of 2020 on the file of the respondent.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The case of the petitioners is that when Section 144 Cr.P.C ban was in force by order dated 24.03.2020, the petitioner was found walking near Puthiyamputhur Selliya Man Koil on 07.05.2020 without proper reason. Hence, a case in Crime No.201 of 2020 for the offences under Sections 188 and 269 IPC has been registered on the same day after getting permission from the Superintendent of Police, Tuticorin. The present petition is filed to quash the First Information Report in Crime No.201 of 2020.

4. This petition is filed mainly on the ground that Section 188 IPC is non-cognizable offence and the police has no right to register the case and investigate. 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 walking in that area.

5. Heard both sides.

<https://hcservices.ecourts.gov.in/hcservices/>



6. In the judgment reported in 2018(2) L.W (Crl.)606 (In **Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another**) 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.

7.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. The offence under Section 269 IPC is concerned, as per the contents of the First Information Report, it is seen that the petitioner was simply walking near Selliymal Temple. It is a trivial matter in which no offence of grievous nature is involved. Even though Section 144 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 walking along the street during the pandemic period will spread the disease is without any basis.

8.Moreover, it is seen that the petitioner has been selected for recruitment of Constable in Central Industrial Security Force for which he has also produced the order dated 12.05.2021, wherein it is found that the petitioner has been selected and about to be inducted for training purpose. During the police verification, it came to notice that the petitioner is involved in this case and so a positive report could not be sent.

9. Considering the nature of allegations and the offences involved in this case, I am of the considered view that walking along the street without any reason should not be a reason for spoiling the future of the petitioner. Unintended 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 also going to drop all these cases, which have been registered during the pandemic period against the public. Taking all these aspects into account, I am of the considered view that the First Information Report in in Crime No.201 of 2020 on the file of the respondent is liable to be quashed and the same is quashed.



10. In fine, this petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)

CM

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 Sub- Inspector of Police,
Puthiamputhur Police Station,
Thoothukudi District

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.BANU PRASATH, Advocate(SR-22224[F] dated
13/07/2021)

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MGJ(20.07.2021) 3P 4C