



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2021

CORAM:

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

Crl.O.P.(MD)No.10174 of 2021 and
Crl.M.P(MD) No.5198 of 2021

Gopal

... Petitioner/Sole Accused

Vs.

The State rep by
The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
Crime No.208 of 2020

...Respondent /Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in pursuant to the FIR in Crime No.208 of 2020 on the file of the respondent police dated 09.08.2020 and quash the same as an illegal.

For Petitioner	:	Mr.S.T.Sasidharan Tamilkani
For Respondent	:	Mr.R.Meenakshi Sundaram
		Additional Public Prosecutor

ORDER

This petition has been filed to quash the impugned First Information Report registered in Crime No.208 of 2020 on the file of the respondent police dated 09.08.2020.

2.The complaint against this petitioner is that on 09.08.2020 at about 8.30 am, when the petitioner went to Samarian Physiotherapy and Fitness Clinic, the respondent police intercepted the petitioner's vehicle bearing Registration No.TN 92 3766, stating that the petitioner violated the order passed by the Government under Section 144 of Cr.P.C. Hence, a case in Crime No.208 of 2020, for the offences punishable under Sections 188 & 269 has been registered.

3.Seeking quashment of the First Information Report, this petition came to be filed mainly on the ground that the offence under Section 188 IPC is non-cognizable offence, for which, the first respondent police has no right to file First Information Report and investigate the matter. In respect of other offences, none of the allegations mentioned in the First Information Report attract any of the ingredients of the offence against the



petitioner.

4.Heard both sides.

5.It is seen that this petitioner found in public place, when COVID-19 protocol was in force. At that time, the respondent police intercepted the petitioner's vehicle bearing Registration No.TN 92 3766. The petitioner did not give any reason or explanation for coming out of the house, defying the order passed by the Government under Section 144 of Cr.P.C. No doubt, defying the Government order and roaming in and around public place during the pandemic situation is mistake on the part of the petitioner. But, however, it is seen that it was only casual outing without any intention of spreading disease. It is also not the case of the prosecution that the petitioner was affected with Covid-19 at the time of alleged occurrence. Absence of any such material to show that the petitioner was affected by Covid 19 at the time of alleged occurrence, offence under Section 269 IPC is not attracted. As I mentioned earlier, it was the casual outing made by the petitioner without minding the consequences. Instead of filing First Information Report, the second respondent ought to have warned the petitioner to go home and remain in home. Without giving such warning, it appears that the case has been registered.

6.The learned counsel for the petitioner would submit that now the petitioner completed his physical and written test to the post for police constable in Tamilnadu State Police Department and awaiting to receive results. Because of the pendency of the criminal case, he is not in a position to proceed further. The non-intentional outing of the petitioner should not be taken seriously. It is also to be noted that the Government has also proposed to drop all such cases, which have been registered against the public during pandemic period.

7.Taking totality of the circumstance, the First Information Report in Crime No.208 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.

Sd/-

Assistant Registrar (CS-III)

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

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-31422[F] dated 06/10/2021)

Crl.O.P.(MD)No.10174 of 2021 and
Crl.M.P(MD) No.5198 of 2021
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SE (CO)
KB(22.10.2021) 3P 4C