



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G. ILANGOVAN

Crl.O.P.(MD)No.11000 of 2021 and

Crl.M.P(MD) No.5616 of 2021

WEB COPY

Sathish

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Alanganallur Police Station,
Madurai District.
(In Crime No.1375/2020)

...1st Respondent /
Complainant

2.A.Jayaraman
The Sub-Inspector of Police,
Alanganallur Police Station,
Madurai District.

...2nd Respondent / Defacto -
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the case in Crime No.1375 of 2020 pending on the file of the respondent Police and quash the same as against this petitioner.

For Petitioner : Mr.M.Murugesan
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records relating to the case in Crime No.1375 of 2020 pending on the file of the respondent Police and quash the same as against this petitioner.

2.The complaint against this petitioner is that on 24.03.2020, the accused person came out from the house without any proper reason and wearing mask, violating the order passed by the Government under Section 144 of Cr.P.C. On the basis of the complaint given by the second respondent, a case in Crime No.1375 of 2020, for the offences punishable under Sections 188, 269 IPC 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.

WEB COPY

5. It is found that this petitioner was found roaming without wearing mask, when COVID-19 protocol was in force. 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 are also 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 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.1375 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 I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ssb

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 consuming 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,
Alanganallur Police Station,
Madurai District.

2.The Sub-Inspector of Police,
Alanganallur Police Station,
Madurai District.

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

+1 CC to M/s.M.MURUGESAN, Advocate (SR-27742[F] dated 01/09/2021)

**Crl.O.P. (MD) No.11000 of 2021 and
Crl.M.P (MD) No.5616 of 2021
31.08.2021**

NSN (CO)

SB(16.09.2021) 3P 5C