



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2021

CORAM:

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

Crl.O.P.(MD)No.11304 of 2021 and

Crl.M.P(MD) No.5776 of 2021

WEB COPY

Arputha Nayagam

... Petitioner/Sole Accused

Vs.

The Sub-Inspector of Police,
Suchindram Police Station,
Suchindram,
Kanniyakumari District.
(Crime No.168 of 2020)

... Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the FIR in Crime No.168 of 2020, on the file of the respondent police and to quash the same.

For Petitioner : Mr.N.Pragalathan

For Respondent : Mr.R.M.Anbunithi

Additional Public Prosecutor

ORDER

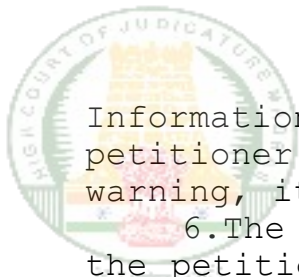
This petition has been filed to quash the impugned First Information Report registered in Crime No.168 of 2020, on the file of the respondent herein.

2.The complaint against this petitioner is that on 01.04.2020 at about 6.00pm, the accused person was found roaming in his two wheeler violating the order passed by the Government during Covid-19 pandemic situation. Hence, a case in Crime No.168 of 2020, for the offences punishable under Sections 188 and 271 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 offence, 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 found that this petitioner was found roaming in his two wheeler 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 made by the petitioner without minding the consequences. Instead of filing First



Information Report, the 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 has a proposal to go abroad seeking job. He produced copy of the passport also. Because of the pendency of the criminal case, he is not in a position to move abroad. 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.168 of 2020, on the file of the 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)

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,
Suchindram Police Station,
Suchindram, Kanniyakumari District.

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

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-27845)

Crl.O.P. (MD)No.11304 of 2021 and
Crl.M.P(MD) No.5776 of 2021
01.09.2021

RS (16.09.2021) 2P 4C