



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.08.2021**

CORAM:

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

Cr1.O.P. (MD)No.12137 of 2021

CRL.M.P. (MD) .No.6235 of 2021

R.Rajkumar

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Keelavalavu Police Station,
Madurai District.
Crime No.311 of 2020.

...Respondent No.1/Complainant

2.Kamalamuthu
Sub-Inspector of Police,
Keelavalavu Police Station,
Madurai District.

...Respondent No.2/Defacto
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating the F.I.R. to Crime No.311 of 2020 dated 02.05.2020 pending on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.S.J.Chakkaravarthy

For Respondents : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal Side)

O R D E R

This petition has been filed seeking quashment of Crime No.311 of 2020 dated 02.05.2020 on the file of the first respondent.

2. The case of the prosecution is that the petitioner was found roaming near E.Malampatti Village Bus Stand, when the lockdown period was in-force. So, he was arrested on the basis of the complaint given by the second respondent by which a case in Crime No.311 of 2020 for the offence punishable under Sections 188, 269 of



IPC r/w Section 3 of Epidemic Diseases Act, 1897 has been registered.

3. Seeking quashment of the First Information Report, this petition has been filed mainly on the ground that Section 188 IPC is non-cognizable offence and so far as the offence under Section 269 IPC is concerned, he was found roaming near the bus stop and there was no intention on the part of this petitioner to spread virus to other people.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

5. As mentioned above, due to pandemic situation, the Government has imposed some restrictions upon the movement of the public in public place. The order passed by the government under Section 144 Cr.P.C was in-force and during that time, the petitioner was found roaming near the village bus stand without proper reasons. No doubt, the petitioner has defied the Government protocol. But, there is no material to show that the petitioner was also affected by COVID-19 virus. So, the respondents ought to have warned the petitioner to go home and inside in home. Instead of that, a case was registered and he has been arrested on the spot itself.

6. So far as Section 188 IPC is concerned, in the case of ***Jeevanandham and others vs. Inspector of Police, Velyuthampalayam Police Station, Karur District and another reported in (2019) 1MLJ (Cr1) 36***, it has been pointed out that the offence under Section 188 IPC is a non-cognizable offence, for which, the police has no right to register the First Information Report and investigate the case and a series of guidelines have also been issued in the above said judgment. So, Section 188 IPC will not stand against this petitioner. Similarly, for the offence under Section 269 IPC as mentioned earlier, there is no material on record to show that he was affected by COVID-19. The non-intentional outing of the petitioner should not be taken seriously.

7. The learned counsel appearing for the petitioner would submit that the petitioner has applied for passport to get job abroad. Further, the Enquiry Officer has stated that because of pendency of this case, the passport could not be issued.

8. Since this is a simple unintentional act as stated earlier, it should not affect the future life of the petitioner. Moreover, the Government also propose to drop all the cases that have been filed during the pandemic situation against the public.

9. Considering the facts and circumstances of the case, this Court is of the considered view that the First Information Report



filed against this petitioner is liable to be quashed and accordingly, it is quashed. Hence, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

WEB COPY

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, 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,
Keelavalavu Police Station,
Madurai District.
Crime No.311 of 2020.
- 2.Kamalamuthu
Sub-Inspector of Police,
Keelavalavu Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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RK (13.09.2021) 3P 4C