



WEB COPY

Cr1.O.P(MD)No.13039 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.09.2021

CORAM

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

Cr1.O.P(MD)No.13039 of 2021

and

Cr1.M.P(MD).6699 of 2021

1.S.Sowmiya Narayana Perumal

2.M.Vinoth

3.S.Karthick

4.P.Karthick

5.K.Sathiesh Kumar

... Petitioners/Accused 1 to 5

Vs.

1.The Sub-Inspector of Police,
Nagamalaiputhukkottai Police Station,
Madurai District.
(Crime No.498 of 2020)

...Respondent 1/Complainant

2.G.Gopinath,
Sub-Inspector of Police,
Nagamalaiputhukkottai Police Station,
Madurai District.

...Respondent 2/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the FIR in Crime No.498 of 2020 dated 16.04.2020 on the file of the first respondent police for alleged offences under Section 188, 269 of IPC and Section 12 of Gambling Act, 1930 and Section 3 of Epidemic Diseases Act, 1897 and quash the same as illegal as for as the petitioner is concerned.

For Petitioners	:	Mr.T.Thirumurugan
For Respondents	:	Mr.R.M.Anbunithi
		Additional Public Prosecutor

ORDER

This petition has been filed to call for the records pertaining to the FIR in Crime No.498 of 2020 dated 16.04.2020 on the file of the first respondent police for alleged offences under Section 188, 269 of IPC and Section 12 of Gambling Act, 1930 and Section 3 of Epidemic Diseases Act, 1897 and quash the same as illegal as for as the petitioner is concerned.



2.The case of the prosecution is that on 16.04.2020, when the defacto complainant and his officials made a routine vehicle check up, at that time, the petitioners along with other accused unlawfully assembled and playing cards by using money. The defacto complainant seized the 52 cards and a sum of Rs.560/- and registered a case in Crime No.498 of 2020 for the offence punishable under Sectionw 188, 269 of IPC and Section 12 of Tamil Nadu Gambling Act, 1930 and Section 3 of Epidemic Diseases Act, 1897.

3.Heard the both sides and perused the materials available on records.

4.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.

5.During the pandemic situation is mistake on the part of the petitioners. 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 petitioners were affected with Covid-19 at the time of alleged occurrence. Absence of any such material to show that the petitioners were affected by Covid 19 at the time of alleged occurrence, offence under Section 269 is also not attracted.

6.The learned counsel for the petitioners would submit that the place mentioned in the First Information Report is neither a common area, as per Section 3 of the Act, not it can be termed as a public street place, as contemplated under Section 12 of Tamil Nadu Gambling Act, however, the respondent police has registered the case against these petitioners. The maximum punishment for the offence under Section 12 of Tamil Nadu Gambling Act is three months or with fine of Rs.10,000/- or both.

7.Since the occurrence took place on 16.04.2020, as per section 468(2) (b) Cr.P.C, within a year Final Report ought to have been filed before the concerned Court. But, in the present case, even after a lapse of more than one year from the date of occurrence, Final Report has not yet been presented before the concerned Court, which is barred by limitation.



8.Taking totality of the circumstance, the First Information Report in Crime No.498 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 (Crl side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tta

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,
Nagamalaiputhukkottai Police Station,
Madurai District.
- 2.G.Gopinath,
Sub-Inspector of Police,
Nagamalaiputhukkottai Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-28395[F] dated 07/09/2021)