



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No. 13441 of 2021

and

Crl.MP(MD)No.6977 of 2021

WEB COPY

Vignesh

... Petitioner/Sole Accused
Vs.

The State Represented by its,
The Inspector of Police,
Thirumangalam Taluk Police Station,
Madurai District.
(Crime No.255 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in relating to impugned FIR in Crime No.255 of 2020 on the file of the respondent police and to quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.P.Sureshkumar

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.255 of 2020 on the file of the respondent police.

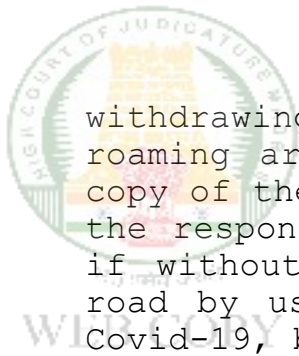
2. The case of the prosecution is that on 20.04.2020, at about 08.15 a.m, the the petitioner violated 144 curfew imposed by the government by roaming in his two wheeler, near Keelakottai bus stop, Madurai District, without proper reason. Since curfew was in force, a case has been registered in Cri.No.255 of 2020 for the offence punishable under Sections 188 & 270 of IPC.

3. Seeking quashment of the First Information Report, this petition is filed, mainly on the ground that none of the allegations mentioned in the First Information Report, attract any of the offences against this petitioner.

4. Heard both sides.

5. According to the learned counsel for the petitioner, on 20.04.2020, he went out of the house only for the purpose of

<https://hcservices.ecourts.gov.in/hcservices/>



withdrawing money from the Bank. Except that, no purpose to him for roaming around the place. To that effect he has also submitted a copy of the mini statement of SBI Bank. But, without proper enquiry, the respondent police registered a case in Crime No.255 of 2020 as if without wearing face masks, the petitioner was roaming in the road by using his two-wheeler at that time of prohibition due to Covid-19, but no prima facie case has been made out in the FIR.

6. The common and judicial notice has also been taken into account that due to the pandemic situation, on 20.04.2020, throughout the Tamilnadu, curfew has been imposed, under Section 144 Cr.P.C for the purpose of controlling the spread of Covid - 19 virus. At that time, this petitioner was found defying the curfew near near Keelakottai bus stop, Madurai District.

7. But, however, it is seen that the offence under Section 188 IPC is non cognizable offence. In respect of which, First Information Report has been filed by the police and this position has been settled by this Court in the judgment reported in **2018 2 LW (crl) 606 Jeevanandham and other Vs. Inspector of Police, Sivakasi Town Police Station, Virudhunagar District]**, dated 20.09.2018. So, Section 188 IPC cannot be made applicable, since police has no power to register the case under Section 188 IPC.

8. Next allegation is that he was roaming around the area, which leads to spread the disease. But that cannot be considered that he caused spread of the disease. So, the casual outings, cannot be construed an offence under Section 270 IPC.

9. Moreover, it is seen that he is only aged about 26 years at the time of occurrence. So, probably it can be taken only casual outing. So, the casual outing, cannot be construed as offence. It is a trivial offence. By which, no damage was done. The Police Officer would have warned him to go home. Without doing this, he registered a case against him.

10. It is further seen that for the purpose of withdrawing money from the Bank, he has gone to the Bank. So, absolutely, there is no intention, on the part of the petitioner to roam around that area, without any purpose.

11. Moreover, it can also be taken judicial notice that the case filed during the pandemic period against public is going to be dropped by the government. So, considering this fact also, nothing is going to be served by prosecuting the case in Crime No.255 of 2020, against the petitioner.

12. Taking totality of the circumstance, the FIR in Crime No.255 of 2020, on the file of the respondent police is required to be quashed and accordingly, the same is quashed and the Criminal



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Crl.O.P.(MD)No.13441 of 2021

Original Petition is allowed.
miscellaneous petition is closed.

Consequently, the connected

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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,
Thirumangalam Taluk Police Station,
Madurai District.

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

+2 CC to M/s.P.SURESHKUMAR, Advocate (SR-31721[F] dated
08/10/2021)

Crl.O.P.(MD)No. 13441 of 2021

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MGJ(08.12.2021) 3P 5C